UNITED NATIONS

CCPR

International covenant on civil and political rights

Distr.
GENERAL

CCPR/C/28/Add.15
22 May 1992

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Second periodic reports of States parties due in 1983

Addendum

ISLAMIC REPUBLIC OF IRAN*

[12 May 1992]

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* For the initial report and supplementary report see CCPR/C/1/Add.16 and CCPR/C/1/Add.26 and Corr.1, respectively, and for their consideration by the Committee see CCPR/C/SR.89, SR.90 and SR.93 or Official Records of the General Assembly, Third session, Supplement No. 40 (A/33/40), paras. 293-331. Subsequently, at the Committee's 149th meeting (sixth session), the Government of the Islamic Republic of Iran informed the Committee of its intention to submit another report, which was submitted and issued as document CCPR/C/1/Add.58. For the consideration of that report by the Committee, see CCPR/C/SR.364, SR.365, SR.366 and SR.368 or Official Records of the General Assembly, Thirty-seventh session, Supplement No. 40 (A/37/40), paras. 298-335.

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I. GENERAL OBSERVATIONS

1. The International Covenant on Civil and Political Rights was adopted by the General Assembly of the United Nations on 16 December 1966, signed by the fully authorized representative of Iran on 4 April 1968, ratified by the National Consultative Assembly on 14 November 1972 and by the Senate on 27 April 1975 (as the Law Authorizing Adherence of the Government of Iran to the International Covenant on Civil and Political Rights). The text of the Covenant was published in the Official Gazette No. 8868, dated 16 June 1975. At that time Iran had in effect the Constitution adopted in 1906 (with its amendments of 1925, 1949, 1957), and its supplement of 1907 (with its amendments of 1925, 1949, 1957, 1967). However, after the victory of the Islamic Revolution on 11 February 1979, a new constitution was adopted in the course of a referendum held on 2-3 December 1979. The said Constitution was amended and supplemented in a referendum held on 28 July 1989, the text of which was published respectively in the Official Gazette No. 10170, dated 21 January 1980 and No. 12957 dated 28 August 1989.

2. According to article 2 of the Constitution, the Islamic Republic is a system based on belief in:

1. The One God ...

2. Divine revelation ...

3. The return to God in the Hereafter ...

4. The justice of God in creation and legislation;

5. Continuous leadership and perpetual guidance, ...

6. The exalted dignity and value of man and his freedom coupled with responsibility before God in which equity, justice, political, economic, social, cultural independence and national solidarity are secured by recourse to:

(a) Continuous Ijtehad (exegesis of divine law) of Fughaha (Islamic Jurist) possessing necessary qualifications;

(b) Science and arts and the most advanced results of human experience ...;

(c) Negation of all forms of oppression ...

3. According to article 4 of the Constitution: "All civil, penal, financial, economic, administrative, cultural military, political and other laws and regulations must be based on Islamic criteria. This principle applies absolutely and generally to all articles of the Constitution, as well as to all other laws and regulations, and the Fughaha of the Guardian Council are to supervise this matter."

4. Article 91 of the Constitution provides that "with a view to safeguard the Islamic ordinances and the Constitution, in order to examine the compatibility of the legislation passed by the Islamic Consultative Assembly with Islam, the Guardian Council will consist ... of six fughaha ... and six jurists...". In article 2 of the supplement to the previous Constitution of 1906 it was explicitly stated that: " ... At all times a board composed of at least five fughaha and religious leaders who are well informed about exigencies of the time will be formed ... This Board will carefully examine all laws passed by the two Houses of Parliament, and will reject those that are against Islam as nul and void.

5. Although according to the Constitution of the Islamic Republic of Iran, Islam is the official religion (the sect is J'afair Isna Ashari), nevertheless by virtue of articles 12, 13 and 14 of the said Constitution:

First: Other Islamic schools are to be accorded full respect, and their followers are free to act in accordance with their own jurisprudence in performing their religious rites. These schools enjoy official status in matters pertaining to religious education, affairs of personal status and related litigation in the courts of law.

Second: Zoroastrian, Jewish and Christian Iranians are recognized religious minorities who, within the limits set by the law, are free to perform their religious rites and ceremonies, and to act according to their own canon in matters of personal affairs and religious education.

Third: The Government of the Islamic Republic of Iran and all Muslims are duty-bound to treat non-Muslims in conformity with ethical norms and the principles of Islamic justice and equity, and to respect their human rights. This principle applies to all who refrain from engaging in conspiracy or activity against Islam and the Islamic Republic of Iran. The term "non-Muslim" here also means those persons who do not believe in monotheism.

6. The provisions of the Covenant are incorporated in the Constitution as well as in other laws and put into force accordingly. In light of the above, the following explanations are furnished in relation to parts I, II and III of the Covenant.

II. OBSERVATIONS ON INDIVIDUAL ARTICLES

Article 1

7. In connection with article 1, paragraph 1, of the Covenant, the Islamic Republic of Iran has since its inception opposed interference in the internal affairs of other countries, and has recognized their right to independence and self-determination. At the same time it believes that it should enjoy the same right and thus has prevented other countries from interfering in its internal affairs. The Constitution has in several articles referred to the need for compliance with this important precept.

8. Article 3, paragraph 5, of the Constitution totally rejects colonialism, and article 152 provides that: "The foreign policy of the Islamic Republic of Iran is based upon the rejection of all forms of domination, both the exercise of it and submission to it, the preservation of the independence of the country in all respects and its territorial integrity, the defence of the rights of all Muslims, non-alignment with respect to the hegemonist super-Powers, and the maintenance of mutually peaceful relations with all non-belligerent States."

9. Article 154 of the Constitution provides that: "The Islamic Republic of Iran has as its ideal human felicity throughout human society, and considers the attainment of independence, freedom, and the rule of justice and truth to be the right of all peoples of the world. Accordingly, while scrupulously refraining from all forms of interference in the internal affairs of other nations, it supports the just struggles of the oppressed against the arrogant in every corner of the globe."

10. Regarding article 1, paragraph 2, of the Covenant, the Islamic Republic of Iran believes in international cooperation for the purpose of progress and economic development; it nevertheless concurrently supports its own economic independence. The references in the Iranian Constitution, in this regard, are as follows:

(a) According to article 43, paragraph 8, of the Constitution prevention of foreign economic domination is one of the major characteristics of the economic system of the country;

(b) Article 153 of the Constitution stipulates that any form of agreement resulting in foreign control over the natural resources, economy, army, or culture of the country, as well as other aspects of national life, is forbidden.

11. As regards the content of this paragraph, which is related to recognition of the right to self-determination and administration of the States parties to the Covenant, it should be pointed out that the Islamic Republic of Iran not only does not keep any nation under its domination and administration, but insists on the realization of the right to self-determination of the Non-Self-Governing and Trust Territories.

Article 2

12. In order to achieve the humanitarian objective of the International Covenant on the Elimination of All Forms of Racial Discrimination, the Government of Iran, with the ratification of the former National Consultative Assembly, adhered thereto on 21 July 1968, and submitted the instrument of ratification to the Secretary-General.

13. Following the above step and in order to fulfil the obligation contained in article 4, paragraph (a), of the Convention, the Government of Iran passed a law to punish racist propaganda on 21 July 1987. According to this law dissemination of any discriminatory ideas based on race, sex and racial hatred

was forbidden, and a term of imprisonment of up to six months or a payment of a cash fine ranging from 10,000 to 50,000 rials was stipulated. Furthermore, the Government declared that anyone who establishes or runs a group or society in order to propagate discrimination on the basis of race, ethnic group or sex, or to create hatred and enmity, or to sow the seeds of discord on these bases will be sentenced to terms of imprisonment ranging from three months to one year, or a cash fine from 10,000 to 100,000 rials. The above law is still binding in the courts.

14. Another action taken by the Government of Iran to ensure enforcement of the provision contained in article 2, paragraph 1, of the Covenant was the adherence of the Government of the Islamic Republic of Iran to the International Convention on the Suppression and Punishment of the Crime of Apartheid. The law authorizing adherence of the Government of the Islamic Republic of Iran to the said Convention was ratified by the Islamic Consultative Assembly on 24 January 1985.

15. Article 19 of the Constitution provides that: "All people of Iran, whatever the ethnic group or tribe to which they belong, enjoy equal rights; and colour, race, language, and the like do not bestow any privilege." In the same context, article 3, paragraph 14, of the Constitution states that: "Securing the multifarious rights of all citizens, both women and men, and providing legal protection for all, as well as the equality of all before the law". In both articles reference is made to the principle of equality and lack of distinction between individuals.

16. With reference to article 2, paragraph 2, of the Covenant, as will be elaborated in the following paragraphs, the laws and regulations of the Islamic Republic of Iran generally remain consistent with the rights set forth in the International Covenant on Civil and Political Rights.

17. Article 156 of the Constitution provides that the judiciary is an independent power, the protector of the rights of the individual and society, responsible for the administration of justice, and entrusted, inter alia, with the following duties:

(a) Investigating and passing judgement on grievances, violations of rights, complaints, resolving litigations, settling disputes; and taking all necessary decisions and measures in probate matters as the law may determine;

(b) Restoring public rights and promoting justice and fundamental freedoms;

(c) Supervising the proper enforcement of law.

18. Article 170 of the Constitution stipulates that: "Judges of courts are obliged to refrain from executing regulations of the government that are in contradiction with the laws or the norms of Islam, or lie outside the competence of the executive power. Everyone has the right to demand the annulment of any such regulation issued from the Administrative Justice Tribunal."

19. Article 171 of the Constitution states that: "Whenever an individual suffers moral or material loss as a result of a default or error of the judge with respect to the subject-matter of a case or the verdict delivered, or the application of a rule in a particular case, the defaulting judge must stand surely for the reparation of that loss in accordance with the Islamic criteria. Otherwise, losses will be compensated by the State. In all such cases, the repute and good standing of the accused will be restored."

20. Article 173 specifies that: "In order to investigate the complaints, grievances and objections of the people with respect to government officials, organs, and decisions, a court will be established to be known as the Administrative Justice Tribunal under the supervision of the head of the Judiciary. The jurisdiction, powers, and mode of operation of this Tribunal will be laid down by law."

21. Article 174 states that: "In accordance with the right of the Judiciary to supervise the proper conduct of affairs and the correct implementation of laws by the administrative organs of the government, an organization will be constituted under the supervision of the head of the Judiciary to be known as the National General Inspectorate. The powers and duties of this organization will be determined by law."

22. Article 11 of the Islamic Punishment Law reads: "According to the purpose of this article, the Law is not retrospective, and if an act was not considered a crime in the past, but is considered a crime under the new law, then the latter will not be enforced in case of those who committed the crime prior to its adoption. However, if the new law provides for commuting of punishment, then it will be applicable to the perpetrator."

23. According to article 35 of the Constitution, "both parties to a lawsuit have the right in all courts of law to select an attorney, and if they are unable to do so, arrangements must be made to provide them with legal counsel". In addition article 36 provides: "Passing a sentence and execution of it must be only done by a competent court and in accordance with the law". Furthermore, it is stated in article 37 that: "Innocence is to be presumed, and no one is to be held guilty of a charge unless his or her guilt has been established by a competent court." Moreover, article 38 says: "All forms of torture for the purpose of extracting confession or acquiring information are forbidden. Compulsion of individuals to testify, confess, or take an oath is not permissible and any testimony, confession, or oath obtained under duress is devoid of value and credence. Violation of this article is liable to punishment in accordance with the law."

24. Article 61 stipulates that: "The functions of the Judiciary are to be performed by the courts of justice, which are to be formed in accordance with the criteria of Islam, and are vested with the authority to examine and settle lawsuits, protect the rights of the public, dispense and enact justice, and implement punishment according to Islam." In article 90 it is stated: "Whoever has a complaint concerning the work of the Islamic Consultative Assembly, the executive power or the judicial power, can forward his complaint in writing to the said Assembly. The Assembly must investigate his complaint and give a satisfactory reply. In cases where the complaint relates to the executive or the judiciary, the Assembly must demand proper investigation

and an adequate explanation from them, and announce the results within a reasonable time. In cases where the subject of complaints are of public interest, the reply must be made public."

25. According to articles 25 and 27 of the Punishment Law, adopted in 1983: "Employees and responsible officials of the Government, as well as the personnel of courts and offices of the Justice Department who, in discharging their duties, commit fraud and deceit, thereby inflicting damages on individuals, are liable to penal prosecution and remedy of damages". Furthermore, according to articles 51, 52 and 54 of the above-mentioned Law, "If any individual, as a result of the default of detention centres, officials or judicial authorities, without a sound reason is detained or prosecuted the responsible officials and authorities will be punished."

26. According to article 56 of the Law in question, "those authorities who exercise power in order to hinder the execution of the written government orders, the state laws or orders and decisions issued by the judicial authorities, will be punished." Further, according to articles 61 and 63 of the Law, "if the government officials, by virtue of their functions or in discharging their duties, purchase someone's property by force, or obtain control thereof, or compel the owner to sell his property or take possession of an object without paying an equitable price therefor, will be punished in addition to paying compensation of the damages."

27. According to article 74 of the same Law: "If a judge of the court or an interrogator or their deputies, to whom a complaint or grievance has, according to provisions of law, been referred, when such investigations fall within their duties, refuse to investigate under whatever pretext, including silence or conflict of laws, or if they notwithstanding the law, delay such investigation and judgement, or act contrary to the clear provisions of the law, they will be dismissed from their judicial functions and will be sentenced to remedy the damages."

28. According to article 83 of the Islamic Punishment Law: "Any official of the justice offices and courts who, spitefully and falsely, expresses an opinion concerning either party, will be regarded as officials who have committed breach of trust, and will be suspended from his official duties from one to three years as well as ordered to pay compensation for damages. In the event of repetition, such officials will be sentenced to permanent dismissal."

29. Article 2 of the Penal Procedures Law provides that penal condemnation is commensurate with the crime, which can have two aspects: a general aspect, and a particular aspect, which concerns injuries to certain person(s) or group of persons, in which case the injured party can claim for personal loss. It should be explained that according to article 16 of the Law pertaining to Establishment of the Penal Courts 1 and 3, adopted in 1989, and the amendments thereof, in those cases where the court investigates losses arising from a crime, there is no special limit for the loss sustained and the verdict issued would be covered by the provision governing the same court. If a claim in the Penal Court ends in a verdict of acquittal of the accused or the suspension of the prosecution, then the Penal Court shall be bound to investigate the legal claim, if it is set forth in the Penal Court, and to issue a verdict thereafter.

30. Article 9 of the Penal Procedures Law indicates that: "A person who suffers losses due to the occurrence of a crime and demands the remedy of his loss pursuant to the prosecutor's statement, is a private claimant, and the following losses can be remedied:

(a) Material losses arising from the perpetration of a crime;

(b) Moral injuries, in the form of diminution of prestige or credibility or spiritual hardships;

(c) Deprivation of certain prospective benefits on the part of the private claimant due to the perpetration of a crime.

31. According to articles 12 through 17 of the Penal Procedures Law: "a person who is injured in a crime can submit his statement of claim to the court before the first session of the investigation of the crime, and the court must investigate his case and, if sustained, issue a verdict in his favour. Should the party who is injured by the offence so wishes, he can submit his statement of claim concerning losses to a legal court, in addition to a penal court."

32. According to articles 2, 6 and 9 of the Law pertaining to Revision of Court Judgements and the Manner of Their Investigation, adopted on 6 October 1988: "the verdicts passed by the Legal 2, Penal 2 and Military 2 Courts can be revised and reconsidered by Legal 1, Penal 1, and Military 1 Courts. Furthermore, the verdicts passed by the Legal 1, Penal 1, Military 1, and Special Civil and Revolutionary Courts can be revised and reconsidered by the Supreme Court. By virtue of this Law, the judge passing the verdict, or the assistant judge and the prosecutor issuing the bill of indictment against the defeated party, can request revision of the verdicts passed."

33. According to article 34 of the Law Pertaining to Establishment of Penal Courts 1 and 2, adopted on 11 July 1989, "a private claimant has the right to request the reconsideration of the acquittal verdict of the accused." Further, in accordance with article 35 of the Penal Courts 1 and 2, "the Chief Justice or the Public Prosecutor can apply for revision of any of the verdicts passed by the Legal, Penal, Special Civil, Military and Revolutionary Courts, even though the case has already been considered in a revision court."

34. In accordance with articles 1, 2, 3, 4, and 5 of the Civil Liability law, "Anyone who, without legal authorization, or due to carelessness, inflicts damages on the body, health, property, freedom, or prestige of an individual or any other right provided him by law, is liable to pay damages to the injured party." After investigation and substantiation of the matter, the court will order the person who has inflicted the damage to pay compensation to the injured party. In the case of a civil servant, if the loss sustained is in the course of discharge of duty and in the manner stated above, then he will be held personally responsible to pay damages. If the damages were due to defects of the equipment of the government organization, then the Government will be held responsible.

35. Article 11 of the Administrative Justice Tribunal specifies the jurisdiction and scope of its powers, as follows:

(a) Investigation of complaints, grievances and protests of real and legal persons arising from:

(i) The decisions and actions of ministries as well as governmental organizations, institutes and companies, municipalities, the revolutionary institutions and the organs and institutes affiliated thereto;

(ii) The decisions and actions of officials of the units mentioned in paragraph (a) in matters related to their duties;

(iii) Governmental and municipal regulations and by-laws, when their purport is contradictory to laws, and circumstances when vindication of the rights of individuals are prejudiced due to the fact that the above decisions, actions or regulations are in contradiction to laws, or when the authorities concerned are not competent, or powers have been misused, or laws and regulations have been contravened or certain obligations have not been fulfilled;

(b) Investigation of protests and complaints concerning the verdicts passed, and the final workshop councils, worker and employer, reconciliation boards, the Commission of Article 200 of Municipalities, the Commission of Article 56 of the Forests and Natural Resources Preservation and Protection Law, limited exclusively to matters of the violation of these laws and regulations, or of contradiction thereto.

36. Verdict No. 67, dated 24 October 1988 in file No. 765 reads: "By virtue of the above, the Circular No. 49194 dated 21 February 1981 requiring the pensioners and their dependents to refer to the relevant bank, and refusal to endorse the subsequent drafts related to above persons' acquired rights without any order from the prosecutor's office, under the pretext of failure to refer within six months, as well as the stipulation under paragraph 6 related to confirmation of the above authorities, are beyond the scope of powers of the Executive Power to issue the above Circular; therefore Part 4 under Paragraph 6 of the above Circular has been cancelled."

37. Article 56 of the Islamic Punishment Law, stipulates that: "Any government employee or official, in whatever rank or position, who exercises his official powers, contrary to the law, to hinder enforcement of written government orders, state laws, the verdicts issued by the courts, or any other order issued by legal authorities, will be dismissed from government service."

38. According to article 57 of the same Law: "Non-judicial government employees or officials, whether governors or their deputies or disciplinary officials, who interfere in affairs that are within the jurisdiction of the justice courts, in matters other than arbitration, and who continue to interfere despite the protest of either or both parties or of the competent authorities, such as prosecutors or court presidents, will be dismissed from government service, and will be imprisoned from two months to three years.

39. Article 9 of the Civil Procedure Law states: "No official authority or government office can change the verdict of a court or hinder its execution, other than the court that has issued the verdict or a higher court, and then only in cases provided for by the law."

40. Article 2 of the Judgement Execution Law states: "The verdicts of courts shall be enforced through issuance of a writ of execution, after being communicated to the defeated party or his attorney or legal representative." Other relevant articles of the said law are as follows:

(a) Article 8 - A writ of execution will be served in accordance with the provisions of the Civil Procedure Law;

(b) Article 17 - Those who hinder execution of the verdict will be punished according to the provisions of the Penal Code, and will also be held responsible for the damages arising from their actions;

(c) Article 34 - As soon as a writ of execution is communicated to the concerned party, he must make arrangements for payment of the judgement debt, or proffer a property which would ensure the execution of the verdict and recovery of the judgement debt;

(d) Article 41 - If the judgement debtor does not willingly comply with the court verdict, the executive officer will enforce the verdict according to the provisions of this Law;

(e) Article 166 - Civil orders issued by foreign courts will be enforceable in Iran provided they fulfil conditions set forth in this Law.

Article 3

41. In accordance with article 3, paragraph 14, of the Constitution, the Government is bound to do its utmost towards "securing the multifarious rights of all citizens, both women and men, and providing legal protection for all, as well as ensuring the equality of all before the law." Furthermore, it is clearly stated in article 20 of the Constitution that: "All citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social and cultural rights, in conformity with Islamic criteria." Based on the conviction of the Islamic Republic, women should be held in high esteem and all their rights observed. Article 21 is devoted exclusively to guarantees for the protection of all aspects of women's rights. It stipulates that, "The Government must ensure the rights of women in all respects, in conformity with Islamic criteria, and accomplish the following:

(a) The creation of a favourable environment for the growth of women's personalities and the restoration of their rights, both material and intellectual;

(b) The protection of mothers, particularly during pregnancy and child-bearing, as well as the protection of children without guardians;

(c) The establishment of competent courts to protect and preserve the family; (see the legal bill of the Special Civil Court, adopted on 23 October 1979 and its subsequent amendments);

(d) The provision of special insurance for widows, aged women and women without support;

(e) The award of guardianship of children to worthy mothers, in order to protect the interests of the children, in the absence of a legal guardian."

42. In the Islamic Republic of Iran, as a matter of principle, women and men have equal social, political and other rights. Women can hold various governmental and non-governmental posts, and they can participate in referenda, as well as in the elections of the Majlis (Assembly) and various other councils, with equal voting rights to men. They can, while enjoying equal rights to men, be ministers, members of parliament, attorneys-at-law, university professors, or hold other high offices.

43. In article 38 of the Labour Code, adopted on 24 October 1989 and ratified by the State Exigency Council on 20 November 1990, the need for the above equality and non-discrimination is expressed explicitly as follows: "Equal wages shall be paid to men and women performing work of equal value in a workplace under the same conditions. Any discrimination on the basis of age, gender, race, ethnic origin and political and religious convictions shall be prohibited." The offender against this legal article shall be condemned in accordance with article 174 of the Labour Code.

44. According to article 6 of the Labour Code: " ... All individuals, whether men or women, are entitled to the same protection of the law; and every person has the right to freely choose an occupation, provided that such occupation is not inconsistent with the Islamic principles or the public interest and does not violate other peoples' rights." In the Islamic Republic of Iran, taking into account the special situation and status of women, there are certain responsibilities and obligations envisaged for men from which women are exempted, while continuing to enjoy relevant rights and benefits. Various of these rights and benefits are referred to hereunder.

45. Immediately after the marriage ceremony, the wife becomes the owner of the dowry and can dispose of it in any way and manner that she may like (art. 1082, Civil Code); the wife can independently do what she likes with her own property (art. 1118, Civil Code); the cost of maintenance of the wife is in the charge of the husband in a permanent marriage, and in the case of temporary marriage, the provision has been especially made therefor (arts. 1106 and 1113, Civil Code); the same is true in the case of a divorced wife during the period of Eddeh when she is pregnant by her husband, until her child is born (art. 1109, Civil Code). Furthermore, maintenance of children is the duty of the father (art. 1199, Civil Code).

46. According to article 1107 of the Civil Code: "The cost of maintenance includes dwelling, clothing, food, furniture in proportion to the situation of the wife, on a reasonable basis, and provision of a servant if the wife is accustomed to have servants or if she needs one because of illness or physical handicap."

47. In relations between husband and wife, the position of the head of the family is the exclusive right of the husband. If the man refuses to fulfil his legal obligations:

(a) Article 111 of the Civil Code provides that: "The wife can refer to the court if her husband refuses to provide her alimony. In such a case, the court will fix the amount and will compel the husband to pay it". If the enforcement of the provisions of the foregoing is impossible or the husband is unable to provide for the alimony of the wife, "the wife can refer to the judge applying for divorce and the judge will compel the husband to divorce her." (arts. 1112 and 1129, Civil Code);

(b) According to article 105 of the Islamic Punishment Law, "Any financially capable person who refuses to pay his wife's alimony, while the latter fulfills her matrimonial duties, will be sentenced by the court."

48. According to article 75 of the Labour Code, "Women shall not be employed to perform dangerous, arduous or harmful work or to carry, manually and without mechanical means, loads heavier than the authorized ...". Article 76 of the same Code states that, "Women workers shall be entitled to 90 days of maternity leave, of which 45 days shall, if possible, be taken after delivery. The said maternity leave entitlement shall be extended by 14 days for women giving birth to twins." Notes 1 and 2 of the same article provide that, "On termination of maternity leave, a woman worker shall return to her work, the duration of such leave being considered a part of her effective service, subject to confirmation of the Social Security Organization." and, "During maternity leave, wages shall be paid in accordance with the provision of the Social Security Organization Act." According to article 77 of the said Code, "Where, on the advice of a physician ... a type of work is deemed too dangerous or arduous for a pregnant worker, the employer shall, without reducing her remuneration, provide her with more suitable and easier work until the end of her pregnancy." According to article 78 of the Labour Code, "In workplaces employing women workers, nursing mothers shall be granted a half-hour break every three hours to enable them to nurse their children until they reach two years of age; such breaks shall be regarded as part of the hours of work. Furthermore, the employer shall set up child-care centres according to the number of children, with due regard to their age."

Article 4

49. In accordance with article 79 of the Constitution of the Islamic Republic of Iran, as a rule, "The proclamation of martial law is forbidden. In case of war or emergency conditions akin to war, the Government has the right to impose temporarily certain necessary restrictions, with the agreement of the Islamic Consultative Assembly. In no case can such restrictions last for more than thirty days; if the need for them persists beyond this limit, the Government must obtain new authorization from the Assembly."

50. During wartime and military occupation, in order to observe freedom during elections, article 68 of the Constitution provides that: "In time of war and military occupation of the country, elections due to be held in occupied areas or nationwide, may be delayed for a specified period if

proposed by the President of the Republic and approved by three fourths of the total number of members of the Islamic Consultative Assembly, with the endorsement of the Guardian Council. If a new Assembly is not formed, the previous one will continue to function."

51. Keeping the populace informed in all respects, particularly about the statements and pronouncements of the deputies in the course of the deliberations of the Islamic Consultative Assembly, was a matter of paramount importance to the drafters of the Constitution. Thus to this end, article 69 provides that: "The deliberations of the Islamic Consultative Assembly must be open, and full minutes of it made available to the public via radio and the Official Gazette. A closed session may be held in emergency conditions, if it is required for national security, upon the request of the President of the Republic, one of the ministers, or ten members of the Assembly. Legislation passed at a closed session is valid only when approved by three fourths of the full House and in the presence of the Guardian Council. After emergency conditions have ceased to exist, the minutes of such closed sessions, together with any legislation approved in them, must be made available to the public."

52. Since the victory of the Islamic Revolution martial law has not been imposed in any part of the county and thus the rights recognized in the Covenant have not been suspended by the Government of the Islamic Republic of Iran.

Article 5

53. The bill authorizing the adherence of the Government of Iran to the International Covenant on Civil and Political Rights - ratified by the Majlis (Assembly) on 7 May 1975 - followed the manner set forth in the Covenant. According to article 75 of the Constitution, "The interpretation of ordinary laws falls within the competence of the Islamic Consultative Assembly. The intent of this article does not prevent the interpretations that judges may make in the course of cassation." Nevertheless, no interpretations have so far been made by the Islamic Republic of Iran about the provisions of the Covenant leading to destruction or limitations of the rights and freedoms recognized therein.

54. Regarding article 5, paragraph 2, of the Covenant, it should be stated that no restriction or derogation has been applied to any of the fundamental human rights which have been recognized in the Constitution and in its amendments, changes and supplements, as well as in other laws, regulations, and customs in the Islamic Republic of Iran, under the pretext that such rights have not been recognized in the International Covenant on Civil and Political Rights, or recognized to a lesser extent therein. Furthermore, according to the Islamic Punishment Law, "Any minister or government authority or official, who, notwithstanding the law, strips individuals of their personal freedom, or deprives them of the rights provided therefor in the Constitution, will be dismissed from his post and will be deprived from government service from three to five years." According to article 49 of the said Law: "If any actions have been taken in contravention of the Constitution on the basis of the forged signature of a minister or government officials, the offender and those who have used it knowingly will be sentenced to terms of imprisonment ranging from three to five years."

Article 6

55. According to article 22 of the Constitution of the Islamic Republic of Iran, "the dignity, life, property, rights, residence, and occupation of an individual are inviolable, except in cases authorized by law." Every human being has the right to life, and this right should be respected and protected; this principle is confirmed and accepted in article 22 of the Constitution.

56. The envisaged right to life should be accompanied by freedom and enjoyment of all other civil rights. Therefore, according to article 959 of the Civil Code of Iran, "Nobody can alienate himself entirely from the enjoyment or use of the whole or a part of his civil rights." Article 960 of the Civil Code further states that, "nobody can dispossess himself of his liberty or forgo the enjoyment of his liberty so long as it is within the limits of decency and when his action is not contrary to the law."

57. Application of capital punishment in the Islamic Republic of Iran is:

(a) Limited to those cases specified in the binding laws for perpetration of the most serious crimes;

(b) Dependent on the trial of the accused in a competent court and passing of the sentence for the offender, finalization of the court verdict and the communication thereof to the condemned party.

According to article 473 (as amended) of the Penal Procedure Law, "The verdicts of penal courts are enforced in the following cases:

(a) If no protest or appeal has been made within the legal time-limit;

(b) If the verdict is confirmed by the Supreme Court;

(c) In those cases where the request for appeal has been rejected or the rejection of the appeal has been finalized."

58. The issuance and execution of a capital punishment verdict as provided for in the laws of the Islamic Republic of Iran is not at all incompatible with the Convention on the Prevention and Punishment of the Crime of Genocide; the law authorizing the Government of Iran to adhere to that Convention was ratified by the National Consultative Assembly on 12 December 1954.

59. According to Iranian law, the most serious crimes include, inter alia:

(a) Deliberate murder;

(b) Drug smuggling;

(c) Armed robbery;

(d) Adultery;

(e) Highway robbery.

The application of each case and the conditions where the above punishment applies, are clearly stated in the relevant laws. According to article 205 of the Islamic Punishment Law, deliberate murder entails retribution. In this regard the following points should be taken into consideration:

(a) According to article 219 of the Islamic Punishment Law "The one who has been condemned to receive retribution must be killed with the permission of the murdered person's next of kin. Therefore, if someone kills him without permission of the murdered person's next of kin, a murder has been committed which itself is liable to retribution."

(b) According to article 257 of the said Law, "Premeditated murder involves retribution. However, with the consent of the next of kin and the murderer, it is convertible into full mulct (blood-money) or more or less than that."

(c) According to article 18 of the same Law, "Where a person of sound mind kills a person of unsound mind (insane), he shall not be subject to retribution. However, he must pay blood-money for murder to the heirs of the murdered person."

60. If a premeditated murder is committed in self-defence, or in defence of the honour or property of the perpetrator or someone else, provided the defence is proportionate to the threat, then, according to article 92 of the Ta'zirat Law, and with due regard to its subsequent articles, the offender will not be punished.

61. An additional and noteworthy decision concerning crime punishable by execution is that of the State Exigency Council entitled "The Law of the Campaign Against Narcotics" of 25 October 1988. Article 34 of this Law was amended on 13 December 1988. The cases of crimes punishable by execution mentioned in the Law are as follows:

(a) Anyone who imports, exports, produces, distributes, buys, sells or offers for sale more than 5 kilograms of hashish, henbane, opium or its precursors (art. 4, para. 4). According to the note to this paragraph, if it is substantiated that the offender has committed the offence for the first time, and has not succeeded in distributing or selling the substance, then the court will condemn him to life imprisonment, 74 lashes and confiscation of property except that which is required for the provision of normal living expenses of his family;

(b) According to article 5, paragraph 4, anyone who keeps, hides or carries opium and other materials mentioned in article 4, in excess of 5 kilograms, will be condemned to a cash fine ranging from 30 to 50 million rials, to imprisonment ranging from 10 to 25 years and, in the event of repetition, to execution;

(c) According to article 8, paragraph 6, anyone who imports, produces, distributes, exports, buys, sells or offers for sale, hides, keeps or carries more than 30 grams of heroin, morphine, codeine, methadone or other chemical derivatives of morphine and cocaine, as well as the juice and oil of hashish, will be condemned to execution. According to Note 1 of the same article, "If it were substantiated that a perpetrator commits the crime, as described in paragraph 6, for the first time, and has not succeeded in distributing or selling the substance, then the court will condemn him to life imprisonment and 74 lashes and confiscation of all his property except that which is required for the provision of the normal living expenses of his family."

62. According to article 9, if, as a result of the repetition of a crime, as mentioned in article 8, the amount of narcotics cumulatively reaches 30 grams at the fourth offence, then the offender will be considered as a corruptor on earth and his punishment will be execution. If the amount does not reach 30 grams, then he will be sentenced to a cash fine of 20 to 30 million rials, a term of imprisonment of 10 to 15 years, and from 30 to 74 lashes. It should be mentioned that addicts who carry or keep up to one gram of the narcotics mentioned in article 8 will not be sentenced to the punishments mentioned in articles 8 and 9. Furthermore, according to article 11 of the same law, the punishment for armed smuggling will be execution. In addition, anyone who wilfully causes someone else to become addicted to the narcotics set forth in article 8 will be sentenced to 5 to 10 years for the first time, 10 to 20 years for the second time and, if the offence is repeated, to execution (art. 18). Note 2 of article 1 states that any person who causes addiction to a member of his family, students, or military and disciplinary personnel, and has committed the said offence for the second time, will be sentenced to execution.

63. Regarding article 6, paragraph 3, of the Covenant, article 77 of the Constitution provides that: "International treaties, protocols, contracts and agreements must be approved by the Islamic Consultative Assembly." Furthermore, article 9 of the Civil Code states that, "Treaty stipulations which have been concluded between the Iranian Government and other Governments in accordance with the constitutional law, shall have the force of law."

64. According to the governing laws in the Islamic Republic of Iran, the killing of human beings, whether individually or collectively, is liable to punishment, and the provisions of the International Covenant on Civil and Political Rights, including article 6, shall not cause derogation from the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide and from Iranian binding laws, where the constituent element of genocide is deprivation of life.

65. Regarding article 6, paragraph 4, of the Covenant as stated above on the conditions of retribution, the said right is among an individual's rights; therefore, prosecution, trial, issuance and enforcement of a retribution verdict, its conversion into full mulct (blood-money), or more or less than that, depends on the request of the next of kin (the holder of the right). If the next of kin condones, then the prosecution and enforcement of retribution will be terminated (arts. 219 and 105 of the Islamic Punishment Law).

66. According to article 11 of the Islamic Punishment Law, if, after the occurrence of a crime, a law is enacted that commutes the punishment or is otherwise more favourable to the offender, and if, according to the previous law, a final and binding verdict has been issued, then the course of action will be as follows:

(a) The final verdict on an act considered to be offence in the past, but not considered an offence according to the subsequent law, would not be enforced, and if it were in the process of being carried out, it would be suspended. In these two cases, and also if the verdict had already been carried out, no penal consequences would apply;

(b) If the subsequent law prescribes commuting the punishment, then the condemned party can request retrial on that basis; in any case, the second punishment cannot be more severe than the first one.

Note: If on the basis of the subsequent law, punishment of a crime were converted into corrective action, then only the latter action would be covered by the verdict.

67. According to article 24 of the Islamic Punishment Law, "Pardon or commuting of the punishment of the condemned, subject to the limits set by Islamic criteria, shall be at the suggestion of the Head of the Judiciary and discretion of the Leader of the Islamic Republic of Iran." Article 38 pertains to conditional release, the conditions of which have been specified e.g. where half of the sentence has been served. Article 25 of the Law relates to suspension of a punishment, which authorizes the court to suspend punishment for two to five years under prescribed conditions.

68. With regard to article 110, paragraph 11, of the Constitution on pardoning or reducing the sentence of convicts within the framework of Islamic criteria, and in order to adopt a unified policy, an Amnesty and Pardon Committee has been established on the basis of relevant regulations. According to article 1 of the Regulations, the above Committee convenes every year on the anniversary of the birthday of the Prophet (Peace be upon him) and on several other religious occasions, and is attended by the Judicial Director-General or his deputy and the Public Prosecutor or his deputy. The Committee is supervised by the Head of the Judiciary or his deputy.

69. Article 3 of the Regulations pertaining to the Amnesty and Pardon Committee, approved on 9 February 1991, provides that the court in charge of enforcing a verdict or the National Organization for Prisons and Corrective Action may propose a pardon or commutation of the punishment if the following conditions are fulfilled:

(a) The person condemned to imprisonment is already in prison;

(b) The punishment, to the extent enforced, has had a positive effect on the morale of and rehabilitation of the condemned person;

(c) There is no private complainant, or the latter's consent has been secured, or arrangements have been made for the payment of judgement debt;

(d) The person condemned to life imprisonment has served at least 10 years, and in other convictions arising from either deliberate or unintentional offence, one third and one fourth respectively of the terms of imprisonment have been served;

(e) In the case of capital punishment, if after a final verdict has been issued, the person condemned to execution requests a pardon, then at the suggestion of the court charged with enforcement of the verdict, or of the National Organization for Prisons and Corrective Action, and pending the latter's decision, enforcement of the verdict will be postponed.

70. Article 4 of the Regulations provides that a pardon or commuted punishment shall, in each case, be at the discretion of the Committee, whose opinion must be clear, justified, and well reasoned. Moreover, article 5 of the said Regulations provides that in the cases of those convicts whose requests for pardon or commutation have been rejected, there would be no objection to another request for pardon or commutation upon expiry of two months from the date of rejection.

71. According to articles 10 and 11 of the Regulations of the Pardon and Amnesty Committee, the Head of the Judiciary, subject to the Leader's confirmation of the decisions of the Committee, will communicate all matters of pardon or commutation to the Penal Records and Pardon Department, which shall in turn send a list of pardoned prisoners to the warden of the National Organization for Prisons and Corrective Action or to the proposing courts within 24 hours, and such matters are to be put into effect.

72. According to the rules of the State Judiciary System, there are two kinds of pardons: general and occasional. According to the above-mentioned Regulations, convicts can be pardoned on various occasions (at least nine national and religious occasions) every year. In addition, according to the note to article 1 of the same Regulations, the Head of the Judiciary can, whenever necessary, call upon the Committee to convene on other occasions as well.

73. As announced by the Pardon Unit of the Judiciary, 32,000 persons, convicted in Justice, Military and Islamic Revolutionary Courts were pardoned, or their punishments were commuted, between September 1989 and June 1991, more than 600 of whom had been convicted for security offence. Furthermore, 90 of the pardoned persons had been condemned to death. In addition, since June 1991, 169 persons have been pardoned on two different religious occasions.

74. With regard to article 6, paragraph 5, of the Covenant, it should be stated that according to article 49 of the Islamic Punishment Law: "Children shall not bear penal responsibility for the offence they commit, and their education will, at the discretion of the court, be entrusted to the child's guardian or, if occasion demands, to the Juvenile Reform and Education Centre." According to note 1 of the same article, a child shall mean a person who has not reached religious maturity.

75. According to article 262 of the Islamic Punishment Law: "A pregnant woman condemned to retribution must not be put to retribution before delivery, and if after delivery enforcement of the retribution would cause the death of the child, it must be delayed until the danger is relieved."

76. According to article 482 of the Penal Statute, penal sentences will be put into effect as soon as they become enforceable; however, according to article 484 of the same Law, "enforceable verdicts will not be put into effect immediately in the following cases:

(a) In the case of a sick convict, if the sickness prevents imposition of the punishment;

(b) In the cases of pregnant women, or women who have recently had a child, until three months after delivery;

(c) In the cases of nursing mothers, until their children reach two years of age, applicable in those cases where enforcement of punishment would injure the child."

Article 7

77. The laws of the Government of the Islamic Republic of Iran are based on negation of any form of mistreatment of all individuals. This overriding principle has been accorded due attention in the Constitution. In order to ensure effective respect for this principle, not only has the Constitution provided for the punishment of those who ignore the prohibitions and commit acts of mistreatment and torture, but provisions have also been made for the legal protection of the victims of torture.

78. Article 38 of the Constitution states that "All forms of torture for the purpose of extracting confession or acquiring information are forbidden. Compulsion of individuals to testify, confess, or to take an oath is not permissible; and any testimony, confession, or oath obtained under duress is devoid of value and credence. Violation of this article is liable to punishment in accordance with the law."

79. As regards punishment for violators of the above, article 58 of the Islamic Punishment Law stipulates that: "If any judicial or non-judicial employee or official of the Government subjects an accused to bodily harm for the purpose of extracting confession, or issues an order in this regard, the said official or employee will be sentenced to imprisonment from six months to three years. If the accused dies due to mistreatment or torture, the offender shall be liable to the punishment of a murderer or of someone who has ordered a murder." Furthermore, according to article 59 of the said law, "Any government official or employee who subjects a convicted person to a more severe punishment than that covered by the verdict, or who orders such a punishment, or who otherwise imposes a penalty not covered by the verdict, then the said official or employee will be sentenced to the punishment prescribed in the said article." (art. 58).

80. Another measure taken by the legislature to prevent torture and mistreatment of individuals, is outlined in article 62 of the Ta'zirat (Reproof) Law. According to this article, "If any judicial or non-judicial employee or official, in discharging his duties or due to such actions, subjects someone to mistreatment or orders such an act without legal authorization, he will be sentenced to retribution or blood-money or 74 lashes, as the case may be."

81. According to article 96, paragraph 1, of the Ta'zirat Law, if a defence against murder, severe injury, or mistreatment entails resort to deliberate manslaughter in self-defence, the perpetrator will not be punished. Moreover, according to article 95 of the said Law, resistance against the police, the gendarmerie or other law enforcement officers, while discharging their duties, is not considered a defence; however if such forces go beyond their duties, and, based on circumstantial evidence, it is feared that their acts may lead to loss of life, injury or damage of reputation, then resistance against them will be a permissible defence.

Article 8

82. The Slavery Convention was adopted by the League of Nations on 25 September 1926. In February 1929 "The Law for Prevention of the Slave-Trade Within Iranian Territory and Liberation of Slaves at the Time of Entry into Iranian Territory" was ratified as follows: "Single Article - No one is recognized as a slave in Iran, and as soon as a slave enters into Iranian territory or into the coastal waters of Iran he is considered a free man. Anyone who buys or sells a human being as slave, or treats another human being as though he were in his possession, or acts as an intermediary in slave trade, will be sentenced to one to three years of corrective imprisonment."

Note: "As soon as a government official learns that someone has been traded or treated as a slave he is duty bound to bring about the means of his liberation, as well as to inform the nearest district public prosecutor so that the offender can be prosecuted." Furthermore, article 960 of the Civil Code of Iran regarding prohibition of depriving people of their freedom was adopted in 1934.

83. The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institution and Practices Similar to Slavery was signed in Geneva on 7 September 1956. On 22 February 1959 the Law of Adherence of the Government of Iran to the Supplementary Convention was ratified by the Iranian Majlis.

84. It should be added that above and beyond the constitutional prohibition of slavery and the slave trade in Iran since the adoption of the Slavery Convention (1926), the Iranian people regard such practices as utterly reprehensible. It is due to this very fact, as well as to legal/constitutional prohibitions, that Iran has cooperated with other countries to combat slavery and slave trade and has contributed to the adoption of international measures to prevent such practices.

85. The Law concerning adherence of the Government of Iran to International Convention No. 29 concerning forced or compulsory labour of the International Labour Organisation was ratified on 24 April 1957, and the Law authorizing adherence of the Government of Iran to Convention No. 105 concerning the abolition of forced labour was ratified on 28 December 1958.

86. Article 62 of the previous Labour Code, adopted on 16 March 1959, and its subsequent amendments, provided that: "Anyone who, contrary to the provisions of International Conventions Nos. 29 and 105, assigns someone to perform forced labour, will be sentenced to payment of remuneration in each case, and additionally, to payment of cash fines from 1,000 to 10,000 rials or to terms of imprisonment from one to six months, or to both."

87. According to article 28 of the Constitution: "Every person has the right to freely choose an occupation, provided that such occupation is not inconsistent with Islamic precepts or the public interest and does not violate the rights of others." The Government has the duty, with due consideration for the society's need for various kinds of work, to provide every citizen with the opportunity to work, and with equal opportunities to obtain employment. According to article 43, paragraph 4, of the Constitution, "respect for the right to choose freely one's occupation, refraining from compelling anyone to engage in a particular job, and preventing the exploitation of others' labour" are among the essential characteristics of the economy of the Islamic Republic of Iran.

88. Article 6 of the new Labour Code states that "Under sections 43 (4), 2 (6) and 19, 20 and 28 of the Constitution of the Islamic Republic of Iran, it is prohibited to force a person to perform work against one's will or to exploit others; Iranians, whatever their tribe or ethnic group, enjoy the same rights; skin, colour, race, language and the like do not constitute any privilege or distinction; all individuals, whether men or women, are entitled to the same protection of the law; and, every person has the right to freely choose an occupation, provided that such occupation is not inconsistent with Islamic precepts or with the public interest and does not violate the rights of others."

89. As stipulated in article 172 of the said Code: "According to article 6 of this Code, all forms of forced labour shall be prohibited. Any person who commits an offence on that account shall, with due regard to his situation and means, as well as to the degree of the offence, be subject to a term of imprisonment ranging from 91 days to one year and to a fine 50 to 200 times the minimum daily wage, in addition to payment of fair remuneration for the work completed and compensation for damages. Where several persons jointly or through an organization, compel a person to perform forced labour, each offender shall be subject to the penalties prescribed above and shall be jointly subject to payment of fair remuneration, unless the person who initiated the offence is superior to an overseer, in which case such person will be held personally responsible.

Note: Where several persons are collectively compelled to perform forced labour, the offender shall, with due regard to his situation and means as well as to the degree of the offence, be subject to the maximum penalty provided for in this article, in addition to payment of fair remuneration."

90. Article 79 of the Ta'zirat (Reproof) Law provides that "Any government employee or official who, by virtue of his functions, employs or hires some individuals, or oversees the transportation of some objects, and who has charged the Government's account for the whole or part of the wage or the cost of the transportation without having paid them out, will be dismissed from service for a period of one month to three years. The same punishment will be imposed on those employers who make other people work without pay, while charging the Government's account and keep these wages for themselves. In any case, the wages must be reimbursed."

Article 9

91. According to article 3, paragraph 14, of the Constitution, the Government is bound to secure the multifarious rights of all citizens, both women and men, and to provide for legal protection for all, as well as for the equality of all before the law. Article 22 of the Constitution provides that "The dignity, life, property, rights, residence, and occupation of an individual are inviolate, except in cases sanctioned by law."

92. In conformity with article 9, paragraph 1, of the Covenant, article 32 of the Constitution states that "No one may be arrested except by the order and in accordance with the procedures established by law." The following Penal Laws are intended to ensure compliance with this Article:

(a) Article 50 of the Ta'zirat (Reproof) Law: In a case where someone has been imprisoned in contravention of the Law and has subsequently lodged a complaint about his illegal imprisonment to law enforcement officers or disciplinary officials, should they refuse to hear his complaint and fail to prove that they have communicated his grievance to the competent authorities to take necessary action, then the involved officials will be sentenced to permanent dismissal from their posts and to deprivation of government employment for three to five years;

(b) Articles 51 and 52 of the Ta'zirat Law concern officials and wardens of detention centres and penitentiaries who refuse to deliver prisoners to judicial authorities, or who receive individuals as prisoners without obtaining detention orders;

(c) Article 71 of the Ta'zirat Law: "Any government authority or official, or any member of the three branches of State, who arrests or imprisons someone without an order from the competent authorities in cases other than those where arrest or detention of individuals is lawfully authorized, or who hides someone in a place by force, will be sentenced to imprisonment from six months to three years and deprived of government service. Anyone who knowingly provides a place for perpetration of the above crimes and is thus an accomplice of the offender, will be sentenced to a punishment of 74 lashes or to imprisonment of three months to one year, and, in any case, to deprivation of government service for five years. If the perpetrator releases the detained person before being prosecuted, and if the duration of detention is not more than five days, then his punishment shall be two to six months of imprisonment. Legal guardians of children, (e.g. a father in relation to his children or a guardian in relation to an insane person) are excluded from the provisions of this article, provided the guardian's action does not exceed the limit of appropriate discipline.";

(d) Article 72 of the Ta'zirat Law: "If the perpetrator of the offence mentioned in the above article uses a forged name or title, or fraudulently uses the names, insignia or uniforms assigned to government officials, or declares a forged order to the competent authorities, he will be sentenced to the punishments for fraud or deceit, in addition to the punishment of the previous article. If he has threatened the detained person with death, or has tortured and inflicted bodily harm on him, then, if his action deserves retribution or blood-money, he will be sentenced to retribution or blood-money, or to lashes".

93. Concerning article 9, paragraph 1, of the Covenant, it is to be added that in accordance with article 96 of the Civil Code of Iran, "no one may deprive himself of freedom, or, to an extent contrary to laws and virtues, refrain from making use of his freedom."

94. In full conformity with article 9, paragraph 2, of the Covenant, article 32 of the Constitution provides that "In case of arrest, charges with the supporting grounds must be communicated and explained to the accused in writing without delay, and a provisional dossier must be forwarded to the competent judicial authorities within a maximum of 24 hours so that the preliminaries to the trial can be completed as swiftly as possible. Violation of this article will be liable to punishment in accordance with the law."

95. The Iranian Law is unambiguous in this regard. "By virtue of articles 22 through 27 of the Penal Adjudication Procedure Law, in the event of the occurrence of a crime, although officials of courts and the police departments, and law enforcement officers generally, are authorized to take necessary action to prevent obliteration of the evidence of crime and to prevent the escape of a suspect, it is emphasized that they are permitted to enter private premises for inspection and to obtain evidence only if they have legal authorization and permission from the judicial authorities investigating the case, except in the case of clear crimes which have been seen and witnessed by the official or a group of people, or when the victim of the crime specifically identifies someone as the criminal, or when the suspect intends to flee, or the proprietor allows the officials to enter the premises. In any event, according to article 24 of the said Law, the law enforcement officers are not entitled to keep the accused under detention longer than 24 hours, and must communicate the matter to the prosecutor within this time-limit. If it is found necessary to keep the accused under detention for more than 24 hours, then the prosecutor should request legal authorization from the examining magistrate to detain the accused."

96. In accordance with article 38 of the Penal Adjudication Procedure Law, if the examining magistrate has independently issued the order for detention of the accused, he is bound to communicate the matter in writing to the prosecutor within 24 hours, and if the latter agrees, the accused will be kept in detention pending investigation. If the prosecutor does not agree then the dispute will be referred to a competent court for investigation and the accused will be kept under detention pending a decision, in which case the accused can lodge a complaint against his detention to the competent court within 10 days from the date of the communication of the decision. This right should be specified to the accused in the examining magistrate's decision order. If the cause for the accused's detention is removed, he can request

termination of his arrest; if no action is taken on his request within 5 days, he will be entitled to send a protest to the competent court within 10 days from the date of expiration of 5-day period.

97. Regarding article 9, paragraph 3, of the Covenant, as stated above law enforcement officers are not legally entitled to detain the accused more than 24 hours, and the judicial authorities can release the accused subject to guarantees. In this connection the following articles of the Penal Adjudication Procedure Law are intended to ensure respect for the rights of the detainee:

(a) According to article 112 of the above Law, the examining magistrate is, except in those cases stipulated in article 115, bound to summon the accused before arresting him, in which case the latter should appear in person, or present his valid reasons for failure to do so, as outlined in article 113.

Note: The accused can be accompanied by an attorney-at-law. Without intervening in the cross-examination, the attorney can, after termination of inquiries, bring to the attention of the examining magistrate points he considers necessary for further elucidation of the facts, defence of the accused, or execution of the laws. The attorney's statements will be incorporated into the minutes;

(b) Article 118 of the Penal Adjudication Procedure Law stipulates that except in urgent cases, the accused will be arrested during the day;

(c) Article 121 of the said Law states: "The examining magistrate shall not summon or arrest anyone unless he has sufficient proof for such summons or arrest.";

(d) Article 123 of the Law states that: "The examining magistrate is bound to carry out preliminary interrogation of the accused within 24 hours of the latter's appearance, and if questioning has not begun within this time-limit, to take the accused to the district public prosecutor who will ask the examining magistrate to question him immediately. If the examining magistrate refuses, is absent, or has valid reason to delay cross-examination, then the public prosecutor will ask the chairman or a member of the Court of First Instance (at present the Penal Court), who is appointed by the Public Prosecutor, to carry out the cross-examination;

(e) Article 124 of the Law states: "If an accused who has been summoned or detained is kept under detention for more than 24 hours without being interrogated by the examining magistrate, as was stated in the above article, and if he is not interrogated after having appeared before the Public Prosecutor, then such detention will be deemed to have been made at personal will, in which case any warden who has committed this crime will be dismissed from his post. Based on violations made against their legal functions, the examining magistrate and the Public Prosecutor will be discharged from their posts;

(f) Article 129 of the Penal Adjudication Procedure Law is concerned with actions taken to prevent the accused from escaping or going into hiding. In order to hinder the escape or concealment of the accused, the examining magistrate is entitled to demand from the accused surety for non-exit in the form of word of honour or money, or to release him on bail or surety or guarantee, or detain him as a precautionary measure in accordance with the provisions of article 130;

(g) Article 130 of the Penal Adjudication Procedure Law provides that: "The bail and surety must be proportional to the significance of the crime, the severity of the punishment, the proofs and means of the charge, the likelihood of the accused's escape, the obliteration of the evidence of the crime as well as to the accused's record, the state of his health, his age and prestige."

Note: If the examining magistrate obtains an inappropriate surety, he will be liable to disciplinary prosecution, and condemnation of fourth degree and higher.

98. Article 9, paragraph 4, of the Covenant, recognizes the accused's right of protest to the court. According to article 38 of the Penal Adjudication Procedure Law, settlement of disputes between the examining magistrate and the prosecutor regarding the accused's detention or other matters falls within the jurisdiction of the relevant court. Specifically, the accused can protest to the relevant court regarding his detention within 10 days from the date of notice of a detention decision. This right should be announced to the accused in the examining magistrate's detention decision. Furthermore, if the cause for confinement of the accused is removed, he can request lifting of his confinement. If no action is taken about his request within 5 days, he will be entitled to lodge his protest to the competent court within 10 days from the date after of expiry of the original 5 days.

99. Note 2 of article 129 of the Penal Adjudication Procedure Law provides that: "Where, due to the issuance of the order of surety, the accused has been kept under detention for four months in a penal case or two months in a misdemeanour case, and the case has not ended in a bill of indictment, then the authority issuing the order is bound to rescind or to diminish the surety, except where there are legal grounds or good causes for keeping the surety order, in which case the order is maintained and the said grounds and causes should be stated and the accused will be entitled to lodge a protest to the misdemeanour (Penal 2) court within 10 days from the date of notice. The decision of the court is final."

100. In connection with article 9, paragraph 5, of the Covenant, if the arrest or detention of someone has been effected by judicial authorities, then article 171 of the Constitution provides that: "Whenever an individual suffers moral or material loss as a result of default or error of the judge with respect to the subject-matter of the case, the verdict passed, or the application of a rule to a particular case, the defaulting judge must stand surety for the reparation of that loss in accordance with Islamic criteria, if it is a case of default. Otherwise, losses will be compensated by the State." In all such cases, the repute and good standing of the accused will be restored.

101. In addition to the above principle, anyone who, without legal authorization, causes detention of any individual(s) will, by virtue of the Civil Liability Law of 1960, be held responsible for compensation of the detainee.

102. Article 1 of the Civil Liability Law, adopted in 1960, states that: "Anyone who, without legal authorization, deliberately or due to negligence, inflicts damages on the health, property, freedom, prestige or good commercial standing or who violates any other right provided by law for individuals, which result in material or moral loss, will be held responsible for the damages arising from his act."

Article 10

103. In the Islamic Republic of Iran, in addition to the Constitution, there exist other penal regulations, by-laws and decrees which fully conform to the provisions of article 10 of the Covenant. Some of the most important regulations in this regard are cited here. Article 39 of the Constitution provides that: "All affronts to the dignity and repute of persons arrested, detained, imprisoned or banished in accordance with the law, in whatever form, are forbidden and liable to punishment."

104. According to article 37 of the Islamic Punishment Law, prisoners can be employed at their own request and with the permission of the court issuing the verdict of condemnation. In the case of ordinary offenders, and subject to the following conditions, it is possible to employ prisoners in industrial and agricultural organizations at the commencement of prison terms:

(a) At the request of or subject to the consent of the prisoner;

(b) If the prisoner is not a professional criminal and is not in a dangerous state.

Note 1: If the prisoner engaged in an industrial and agricultural organization commits an offence, he will be returned to the prison immediately, and, in addition to the punishment of the most recent crime, he will also be subject to the remaining punishment of the previous crime.

Note 2: The income obtained from the prisoner's employment belongs to him, unless other arrangements have been made.

Note 3: The arrangements for determination and fulfilment of the above conditions regarding the convicts of ordinary offence, as well as the manner of employment of convicts of military courts and of political offence, the mode of wage payment, as well as protection of prisoners, shall be according to regulations which will be proposed by the Supreme Judicial Council and approved by the Ministers of Defence, the Interior and Justice.

105. As regards the treatment of prisoners, "Prison Regulations" were approved on 19 March 1989. Article 22 of this document was amended in January 1990, and a note was added thereto and published in the Official Gazette No. 12915 dated 5 July 1989 and No. 13078 dated 20 January 1990 respectively. The above

regulations and amendments comprise 10 chapters, 24 sections, 180 articles and 45 notes. They include sections dealing with admission, identification and classification, census and inspection of prisoners, locations of prisons and prisoners, daily programmes, rest areas, clothing and bedding, prisoners' food, cleaning, prisoners' personal hygiene and health matters, etc., as well as the regulations pertaining to the rights of prisoners.

106. According to article 2 of the said Regulations, admission of the prisoner begins from the time when the accused or convict, by virtue of an official form signed and sealed only by the judicial authority of the relevant district issuing the decision or order containing the full particulars of the accused or convict, is delivered to the penitentiary or prison by a recognized agent.

107. According to article 23 of the said Regulations and its notes:

(a) Prisoners are assigned to various sections of prisons or correction institutions, depending on the their record, age, sex, type of crime, prison term, physical and psychological condition, personality and aptitude, in accordance with the provisions of these Regulations and at the discretion of the Classification Council;

(b) Women in general, and youths up to 20 years of age, whether accused or convicted, are kept separately, and the Classification Council will make decisions about them in the manner provided for in the above articles;

(c) Women prisoners can bring their children up to two years of age with them. The prison wardens in every prison are obligated to keep children from two to five years in separate nurseries or to transfer them to child maintenance institutes. According to article 25 of the above Regulations, the accused are to be kept in detention centres and the convicts in prisons, both of which can, at the discretion of prison wardens, offer educational, professional, recreational and sport programmes. According to the note to article 51, the accused and convicts are so designated by means of signs affixed to their clothing.

108. Article 51 of the said Regulations specifies the colour and style of clothing for men and women prisoners, both for winter and summer.

109. According to articles 61 and 63 of the Regulations, the conditions of prisons in general, and sanatoria in particular, should conform with health standards. The health office of the prison is bound to have all prisoners examined at least once a month. Furthermore, it is stated in article 64 that "... Whenever necessary, the departure of a prisoner from a prison for medical treatment shall be subject to confirmation of the health office of the prison and permission of the relevant judicial authority. In urgent cases, a sick prisoner will be sent to an outside hospital by order of a physician or the health office of the prison and permission of his deputy, and the matter should be brought to the notice of the relevant judicial authorities at the earliest opportunity."

110. According to article 68 of the Regulations, the bathroom, lavatory and sinks of the prison must always be clean, and sufficient cold and hot showers should be put at the disposal of prisoners, so that they can, with due regard to four seasons, take showers at least once a week. And according to article 70, the health office of the prison is obligated to take necessary steps for prevention of the spread of infectious diseases, such as tuberculosis and venereal diseases, and to provide proper areas and procure necessary medicines for full treatment of patients and addicts of narcotics and alcohol, with the cooperation, financial and technical assistance of ministries and concerned institutes and associations.

111. In addition to the public visiting places which, according to article 83 of the Regulations, must be equipped with shatterproof glass, telephone and soundproofing, every prisoner can, by virtue of article 85, meet his or her spouse, children, father, mother, brother and sister in the presence of an officer. According to article 87 of the Regulations, the prisoners can, in some cases and subject to the consent of the prison warden, hold private meetings with their spouses and children without the presence of an officer.

112. According to article 89, lawyers, if in possession of a power of attorney to protect the rights of their clients, can, whenever the occasion demands, appear at the prison during office hours, present their powers of attorney to the prison warden, and meet with their clients in a special room separate from the public meeting place. If the prisoner is considered incommunicado, then the meeting can take place at the discretion of the judicial authorities.

113. According to articles 94 to 97 of the said Regulations:

(a) Meetings with a foreign national should take place in the presence of an official translator, unless the conversation is conducted in Farsi, and the translator's fee shall be paid by the applicant or the Society for the Protection of Prisoners;

(b) Meetings between diplomatic and consular representatives with their nationals in prison shall be held in coordination with the Ministry of Foreign Affairs and permission of the prison warden;

(c) Prisoners whose country has no diplomatic mission in Iran can, with due regard to the above article, meet the diplomatic and consular representative of the Government representing their Governments;

(d) Whenever a foreigner visits a prisoner, such a meeting should be held in the presence of a prison official, and the conversation should be audible and without whispering.

114. According to article 99, a prisoner who is not incommunicado can, with due regard for legal and religious standards, write at most two letters per week and send the same through the prison dispatch office to the following persons: spouse and children, father and mother, brother and sister, legal guardian and lawyer or other relatives and friends. Letters addressed to authorities shall be signed and fingerprinted in the presence of the head of the letter dispatching section; the writer's signature and fingerprint shall be certified by the above officer and sealed by the relevant section.

115. According to article 100 of the Regulations, in exceptional circumstances and subject to the prison warden's permission, a prisoner can, with due regard for the relevant regulations, correspond more frequently than prescribed in the previous articles with relatives or competent authorities or with others who, in one way or another, have a bearing on his education or solution of his personal, family and social problems.

116. Article 104 of the Regulations provide that foreign prisoners can correspond with their diplomatic and consular representative through the Ministry of Foreign Affairs, and their letters should be inspected and sent to the destination in accordance with provisions of these Regulations. Furthermore, according to article 108, prisoners can receive and study religious, scientific and textbooks, or any other legally authorized book or publication, under the supervision of the cultural officer of the prison.

117. According to article 111 of the Regulations, in order to facilitate the prisoners' return to normal life, efforts should be made to maintain family bonds; for this purpose, prison social workers are obligated to maintain regular contacts with prisoners, to address their material and moral needs, and those of their families, through the relevant offices, and to play an effective role in establishment and consolidation of family bonds. According to article 113, requests for marriage or divorce, or the drafting of transaction deeds and contracts to which the prisoner is a party, should be communicated to the prosecutor, so that they can be executed by the Notary Public in prison at minimum cost, provided no rights are prejudiced.

118. According to article 115 of the Regulations, a prisoner must remain in prison or detention centre; however in some cases such as the marriage of children, the death of an immediate blood relative or in-law, contraction of a serious disease, consolidation of family bonds or performance of necessary duties, a prisoner may be granted a furlough.

119. According to article 118, when travelling to the court or on the way back, the prisoner should be accompanied by two guards, one equipped with sidearms and the other unarmed. Upon entering the court or the office of other judicial authorities, the prisoner's handcuffs are removed by the order of the said authorities. According to the note to article 118, when prisoners are seen off, they should, to the extent possible, be taken along the least crowded routes and be protected from insults and reproach.

120. According to articles 119 and 132 of the Regulations, prisoners are entitled to receive national news through the mass media in the prison. Use of authorized newspapers and magazines is permitted in the prisons. According to articles 123 and 124, scientific, vocational, technical and religious training are given in prisons, and "It is compulsory for prisoners under 40 years of age to take part in literacy classes, as well as in the scientific, vocational and technical courses."

121. According to article 127 of the Regulations, in order to help prisoners in their social rehabilitation and their full reintegration in the social environment, the Organization of Prisons is obliged to organize ordinary and correspondence courses and, with due regard for Regulations, means for

primary, secondary and university education as well as specialized scientific, vocational and technical courses for those prisoners who are interested in continuing their education while in prison.

122. Any prisoner who follows one of the official religions is entitled:

(a) According to article 135, to keep a holy book, prayer material, etc. for performance of religious rites in his group or solitary cell;

(b) According to article 136, to request a representative of his faith to appear in prison, with the permission of the prison warden, to give him guidance in performing religious rituals; and

(c) According to article 139, with the agreement of the relevant authorities, to participate in sport events as well as cultural and religious activities outside the prison.

123. Prisoners who have received a definitive conviction will, after having passed the necessary tests to determine their aptitudes and expertise, be employed in workshops inside prison or in industrial, agricultural and service institutes outside prison, subject to the agreement of the Classification Council and with due regard to provisions of the Regulations.

124. According to article 151 of the Regulations, the general and welfare services of prisons, including industrial, agricultural and service activities and cleaning of internal enclosures and food, shall be carried out by the prisoners in rotation; however, those prisoners who are continually assigned to these tasks will be entitled to wages, subject to the discretion of the Classification Council.

125. According to paragraphs (a) and (b) of article 153, all working prisoners must be insured and safety, protective and health regulations must be complied with. Further, according to article 157 of the Regulations, it is forbidden to insult, or use bad language against prisoners or inflict bodily harm on them, as well as to administer rough, arduous and abominable punishments in prisons. Use of handcuffs is allowed in the following cases only:

(a) To stop the prisoner from escaping when he is being sent to judicial authorities, transferred from one prison to another or in similar cases;

(b) By the order of the prison warden to prevent a prisoner from inflicting harm on himself or on others or damaging property.

126. According to articles 158 and 159, if a prisoner shows good conduct and behaviour during his prison term he will be rewarded, but if he acts against the provisions of the Regulations and the prison's internal rules, his infringements will be investigated in the Disciplinary Council and appropriate decisions will be taken.

127. With the cooperation and assistance of the Society for the Protection of Prisoners, charitable organizations and recruitment and placement offices of the Ministry of Labour and Social Affairs, material and moral protection will be given to those prisoners who have no place or occupation after their release. According to article 167, two months before the release of foreign nationals from prison, the matter will be brought in writing to the attention of the diplomatic and consular representatives of their home country through the Ministry of Foreign Affairs, so that necessary provisions can be made about their situation after release from prison.

128. In accordance with article 169 of the Regulations, the prison warden should make the necessary arrangements for the financially restricted prisoners wishing to return to their home town once released from prison, and he should render them assistance to reach their destination. Their travel expenses shall be borne by the prison office or by the Society for the Protection of Prisoners.

129. The charter of the Society for the Protection of Prisoners was approved in the Supreme Judicial Council on 1 March 1982 and was amended subsequently in 1983. The Regulations of the Society for Protection of Prisoners were approved by the Supreme Judicial Council on 1 May 1981.

130. According to an amendment to the above-mentioned charter, the Society for the Protection of Prisoners is established with the participation of officials and trustworthy individuals, in the headquarters of each public court. The Society is an incorporated and non-profit institute. The Department of Corrective and Educational Actions is entrusted with supervising the work, formation and dissolution, policy-making, issuance of orders and coordination of the affairs of societies at the national level.

131. According to article 2 of the charter, the Society helps the prisoners and their families in their dealing with the prisons and the corrective and educational institutes as well as with care centres for prisoners after their release. In article 3 of the charter, some functions of the Society are specified which should be discharged in order to achieve its objectives.

132. According to article 12 (as amended) of the charter, the Board of Directors is composed of the following: the Public Prosecutor, the Islamic Revolution Prosecutor, the Director-General of the Prisons Organization, the Governor, the Prison warden and three trustworthy local persons to be selected among the pious, reputable and charitable, at the suggestion of the Director-General of Prisons and confirmed by the President of the organization.

133. According to article 2 of the Regulations of the Society for the Protection of Prisoners, the Administrative Office of the Society is composed of the following four sections: administrative, financial, social, executive. The social section is in charge of all social work of the Society in prisons, protective measures and assistance given to prisoners and their families, employment of prisoners after their release and other social activities arising from functions of the society. The executive section takes charge of such affairs as establishment of industrial and agricultural

workshops, health institutes and training in prisons, assistance to establish information and education centres, care centres after release and other institutes that can be established by the Society according to its Regulations.

134. In addition to the provisions previously dealt with concerning pardon or commuting the prisoners' punishment and release, as according to Iranian laws in those cases where the prisoner should pay blood-money to the injured party and is unable to do so, he must stay in prison for a longer period in addition to sustaining the prescribed punishment. Therefore, at the suggestion of the head of the Prisons and Corrective and Educational Organization, a staff called "The Staff for State Blood-Money Affairs" was founded on 25 April 1990. In the course of the first session of the Staff's meeting, the sum of 520 million rials was collected.

135. As the payment of blood-money by the Staff might have an unfavourable effect on the released prisoner and might lead to perpetration of further crimes, the Staff has decided that the blood-money should not be paid gratuitously, but should be in the form of a loan, whose repayment depends on the borrower's capacity and usually extends over a 15- to 20-year period. By this arrangement, not only does crime remain an abominable act, but also the Staff's receipt of repaid loans makes the release of more prisoners possible.

136. By March 1991, a total of 218 prisoners had been released by the Staff, 95 per cent of whom were married. In order to prevent perpetration of more crimes by the prisoners after their release and to make them useful members of society, they have been introduced by the Staff to employment in government companies, departments and factories. Furthermore, the Staff has enjoyed the cooperation of other government organs and ministries and, consequently, has made further progress; some proposals have been made for provision of more funds for payment of blood-money.

137. In addition to the above actions, a sum of 3 billion rials out of the general budget has been allocated to this important matter, to be used, together with other sums put at the disposal of the Staff, for payment of blood-money and release of prisoners who, based on the verdicts issued by courts, are deemed to be insolvent. The last part, third alternative, paragraph (a), note 28 of the General State Budget of 1991, adopted on 1 February 1991, states in this regard, "In order to pay the blood-money of the insolvent convicts, the sum of 3,000,000,000 rials ... is put at the disposal of the Justice Department to be expended on the basis of the verdicts issued by Courts."

Article 11

138. Single article of the Law prohibiting detention of persons for failure to fulfil financial undertakings, adopted on 13 October 1973, reads: "As from the date of this Law takes effect, no one shall be detained for non-payment of judgement debt and for failure to fulfil other financial undertakings, except in the case of cash penalty, and those who are in detention on these grounds shall be released. The debtor is bound to put the writ of execution into effect within a month from the date of its service, or to make arrangements for payment of his debt, or to introduce property which would facilitate

execution of the order or collection of dues; if he deems that he is unable to fulfil the content of the writ of execution, he should provide a detailed list of his property to the responsible official of the execution within the above time-limit, or to declare clearly that he has no property."

139. The debtors who are in detention and are released by virtue of this Law, are bound to submit such a list of their property before their release. If within three years after expiration of the above time-limit, it becomes known that the debtor was able to execute the order and pay the debt but has refrained from introducing any property in order to evade payment, or if he has furnished false information or has failed to declare any property after he has obtained it, then he will be sentenced to terms of imprisonment from 61 days to 6 months.

140. Although being condemned to pay blood-money has a penal character, certain facilities have been provided to help the release of the persons who are imprisoned due to their inability to pay blood-money, e.g. allocation of 3 billion rials from the General Budget (see para. 137 above).

Article 12

141. According to article 33 of the Constitution, "No one can be banished from his place of residence, prevented from residing in the place of his choice, or compelled to reside in a given locality, except in cases provided by law."

142. Article 90 of the Islamic Punishment Law states that, "[For] any one convicted [of] a crime, the court is authorized to deprive the convicted person of his social rights and also prohibit him from residing in any place or compel him to stay in a specific place. Such deprivation should be for a specific period of time and proportionate to the crime."

143. According to Iranian laws, there is no objection to people leaving the Islamic Republic of Iran, except in those cases where the law explicitly states that certain individuals should be barred from departure from the country pending resolution of their cases. "The Law Pertaining to the Right of Prevention of Passport Issuance and Departure of the Debtors of the writ of Execution and Others," adopted on 1 February 1973, deals with such cases. Article 16 of the said Law states that no type of passport shall be issued to those who are not entitled to leave the country by virtue of the written declaration of judicial authorities. Further, article 17 of the same Law provides that: "The Government can prevent issuance of passports and the departure of debtors of tax and writs of execution of justice administration and State registration deeds as well as those who have failed to fulfil foreign exchange obligations, according to standards and criteria determined in the Regulations."

144. According to the single article of the "Bill on Prohibiting Departure of Bank Debtors", adopted on 20 May 1980, "In order to prevent departure of those persons who owe money to banks in Iran and whose names have been declared by banks to the Central Bank of Iran, as well as importers and exporters who have failed to fulfil their obligations, the Central Bank is authorized to request prohibition of departure of such persons from the country through the Public Courts of Tehran."

145. With regard to article 12, paragraph 4, of the Covenant, it should be mentioned that the Law Pertaining to Entry and Residence of Foreign Nationals in Iran, consisting of 23 articles, was adopted on 9 May 1931, in which their entry and exit have been explained in detail. The latter part of article 2 and article 10 of this Law were amended on 3 May 1958 as follows: "In addition to the right of entry, the visa granted to foreigners by government representatives abroad also accords them the right to stay in Iran for 90 days, with due regard to article 3 of the Law Pertaining to Entry and Residence of Foreign Nationals.

Note: The Government can make special arrangements in exceptional cases. According to article 10 (as amended), the permission to leave Iran will be given to aliens by the police office of their permanent or temporary residence.

Note: Those foreigners who enter Iran and whose duration of stay does not exceed 90 days do not need exit visas; however, they are bound to fill in the exit declaration forms and submit the same to immigration officers at the port of exit."

Article 13

146. Expulsion of foreigners from the Islamic Republic of Iran is confined to legal cases only and subject to the 1931 Law Pertaining to Entry and Residence of Foreign National in Iran, its subsequent amendments, and to the provisions of the Civil Code. Article 3 of the Law provides that "If any one of the obstacles stipulated in article 2 is not known to government representatives abroad at the time of granting visa, and becomes known later on, the officials concerned may refuse to grant permanent or temporary permit of residence or to rescind the permits issued. Upon cancellation of such permits in any of the above cases, the local police will expel the foreigner from the country.

147. According to articles 4 and 5 of the said Law, residence of foreign nationals may be of permanent or temporary nature. In the case of temporary residence, the foreign national will be expelled from Iran if the authorized duration of stay (i.e. 90 days) is not prolonged. Furthermore, article 11 of the same Law states that a foreign national may be expelled from Iran or his place of residence changed in the following cases:

(a) If he acts contrary to provisions of this Law;

(b) If the transit or residence permit is canceled in accordance with the provisions of articles 3 and 4.

The expulsion decision will be put into effect by the police, and if delaying its execution is not deemed to be contrary to the national interest, an extension could be granted to the foreigner. If he did not voluntarily leave the country within the time-limit, then he would be expelled.

148. Article 12 of the said Law provides that where a residence permit has been denied and the decision for expulsion has been taken by the competent authorities appointed by the Government, the foreigner is entitled to request, through the Ministry of the Interior, review of the said decision. The request

will be submitted, in writing or by cable, to the competent authority who has taken the decision; the foreigner can also forward his request directly to the Ministry of the Interior.

149. According to Article 988 of the Civil Code, Iranian nationals who apply for the renunciation of their Iranian citizenship in favour of a foreign citizenship must, besides carrying out the stipulations of clause 3 of the article, leave Iran within three months from the date of issuance of renunciation instruments. Extension of the said time-limit up to a maximum of one year shall be subject to the agreement of the Ministry of Foreign Affairs.

Article 14

150. Article 3, paragraph 14, of the Constitution provides for "Securing the multifarious rights of all citizens, both women and men, and providing legal protection for all, as well as the equality of all before the law." According to article 32 of the Constitution, "No one may be arrested except by the order and in accordance with the procedure laid down by law. In case of arrest, charges with the reasons for accusation must, without delay, be communicated and explained to the accused in writing, and a provisional dossier must be forwarded to the competent judicial authorities within a maximum of 24 hours so that the preliminaries to the trial can be completed as swiftly as possible. Any violation of this article will be liable to punishment in accordance with the law."

151. According to article 34 of the Constitution, it is the indisputable right of every citizen to seek justice by recourse to competent courts. All citizens have the right of access to such courts, and no one can be barred from courts to which he has a legal right of recourse. Further, according to article 35, both parties to a lawsuit have the right in all courts of law to select an attorney, and if they are unable to do so, arrangements must be made to provide them with legal counsel. In addition, article 37 stipulates that innocence is to be presumed, and no one is to be held guilty of a charge unless his or her guilt has been established by a competent court.

152. Article 61 of the Constitution provides that: "The functions of the judiciary are to be performed by courts of justice, which are to be formed in accordance with the criteria of Islam, and are to be vested with the authority to examine and settle lawsuits, protect the rights of the public, dispense and administer justice." Furthermore, it is stated in article 156 that "The judiciary is an independent power; is the protector of the rights of the individual and society and is responsible for the administration of justice."

153. Other related articles of the Constitution are as follows:

(a) Article 165 - Trials are to be held openly and members of the public may attend without any restriction, unless the court determines that an open trial would be detrimental to the morals of public order or, in private disputes, both parties request that it not be held openly;

(b) Article 166 - The verdicts of courts must be well reasoned and documented with reference to the articles and principles of the law in accordance with which they are delivered;

(c) Article 167 - The judge is bound to endeavour to judge each case on the basis of the codified law. In case of absence of any such law, he has to deliver his judgement on the basis of authoritative Islamic sources and authentic Fatawa (religious decrees). He cannot, however, refrain from examining cases and delivering judgement by reasons of silence, inadequacy or brevity of law in the matter, or conflict among laws;

(d) Article 168 - Political and press offences will be tried openly and in the presence of a jury, in courts of justice. The manner of selection of the jury, its powers and the definition of political offenses will be determined by law in accordance with Islamic criteria.

154. According to the single article of the Law pertaining to the Jurisdiction of Revolutionary Courts, adopted on 1 May 1983, these courts are part of the Justice Department, and are administered under the judiciary. The main function of these courts are to investigate:

(a) All crimes against external and internal security of the State;

(b) Attempts on the lives of state officials;

(c) All crimes related to narcotics and drug smuggling;

(d) Crimes perpetrated by certain elements in previous regimes in massacring, torturing and suppressing the Iranian people;

(e) Plunder of the treasury;

(f) Usury and hoarding.

155. According to article 6 of the Law pertaining to the Review of Court Verdicts and the Manner of Their Investigation, adopted on 6 October 1988, the judgement debtor or his attorney or his legal deputy can, based on documentary evidence, request review in the following cases:

(a) If he claims that the documentary evidence was not valid, or that witnesses committed perjury or were not competent to testify, from the legal or religious points of view;

(b) If he claims that the verdict was contrary to law or religion;

(c) If he claims that the court or the judge was not competent.

156. According to article 2 of the same Law, the review forums for verdicts issued by the Penal 2, Legal 2 and Military 2 Courts are respectively Penal 1, Legal 1 and Military 1 Courts of the same locality. Article 3 of the same Law states that the review forum for verdicts issued by the Penal 1, Legal 1, Military 1, Revolutionary and Special Civil Courts is the Supreme Court. According to note 1 of article 17 of the Law of Establishment of Penal Courts 1 and 2 and branches of the Supreme Court, adopted on 11 July 1989, the Supreme Court is the proper forum to settle disputes between the Revolutionary and Military courts, and between any of the above courts and other courts of justice.

157. According to article 43 of the Penal Adjudication Procedure Law, the examining magistrate can initiate preliminary inquiries only when he is entitled to do so. Also, according to article 44 of the said law, the examining magistrate should make inquiries impartially and should uncover all circumstances whether they are for or against the accused. According to the notes to article 45, violation of articles 44 and 45 would entail disciplinary condemnation of the examining magistrate from third degree upwards.

158. Article 125 of the same Law provides that the cross-examiner shall first ask the identity and particulars of the accused accurately, warn him to heed his statements, clearly explain to him the subject of the accusation and the reasons thereof, and then start questioning. It is forbidden to ask leading questions or to beguile or compel the accused. In article 327, it is prescribed that the proceedings of the court should be held in public except in the following cases:

(a) In offences related to chastity;

(b) In obscene offences related to acts as well as those against morals;

(c) In cases involving public religious sentiments; and

(d) In those cases where open trials disturb state security.

The court will make arrangements for trial in camera after hearing the Prosecutor General's views.

159. According to article 136 of the Civil Procedure Law the proceedings of litigations are open except when open sessions may disturb public order or morals in which case the court can, either independently or at the request of either party or the prosecutor, make arrangements for a closed hearing. Furthermore, according to article 156, the verdict should be pronounced in open session even though the trial might have been held in camera.

160. The examining magistrate is bound to start initial proceedings within 24 hours from the time that the accused is available. If the examining magistrate postpones discharging this duty, the prosecutor will ask the examining magistrate to immediately start questioning the accused. If he refuses to do so, or in the case of his absence or of a valid excuse, the prosecutor will ask the President or a member of the Court of First Instance, whom he appoints, to question the accused (art. 123 of the Penal Adjudication Procedure Law).

161. Article 124 of the said Law states that if, due to the above-mentioned delay, the accused is kept under detention for more than 24 hours, such detention will be deemed of the kind that is made arbitrarily; if the guards commit such an offence (delay in informing the prosecutor and introducing the accused for more than 24 hours), they will be discharged from their posts; in addition, the prosecutor and the examining magistrate will be dismissed from their posts because of violation of their legal duties.

162. With the exception of the three cases mentioned in article 115 of the Penal Adjudication Procedure Law, the examining magistrate must summon the accused by means of a subpoena drawn up in duplicate, one copy of which is submitted to the accused. The date and place of appearance, and the consequence of failure to appear are to be specified in the subpoena. The summoned accused should appear in person and can be accompanied by a lawyer. The lawyer can, without interfering in the process of cross-examination, set forth the points he deems necessary for the examining magistrate in order to elucidate facts, defend the accused and execute laws; upon the termination of cross-examination, the lawyer's statements shall be recorded in the procès-verbal (art. 112 of the said Law and its supplementary note). If the summoned person cannot appear before the examining magistrate, he should supply a valid reason. The points deemed to be valid reasons are mentioned in article 113 of the same Law.

163. When the preliminary investigations have been completed, the prosecutor can send the accused and the complainant (if present) to the court and immediately set forth the claim verbally in the court. In such a case, the court convenes without delay and warns the accused that he is entitled to request a specified adjournment in order to appoint a lawyer and prepare a defence. A postponement of at least three days will be granted to the accused and surety will be secured from him. If he does not avail himself of this right, then the court will begin investigation in the same session and pass verdict (art. 59 (b), as amended, 22 January 1974).

164. According to article 27 of Penal Courts 1 and 2 Formation Law, adopted on 11 July 1989: "In all offences, the judge of the court can, taking account of circumstances and the case, initiate immediately and directly the prosecution and trial of the accused in the court. If the trial requires preliminary investigations, he can carry them out independently or ask the public prosecutor's office or law enforcement officers to do so under his (the judge's) supervision. In this case, the file will be sent to the court after completion of the investigations and necessary actions. According to the note to this article, in such cases, it is up to the court to secure the necessary surety."

165. If the preliminary investigations are complete, the prosecutor can, in accordance with article 59 (b) supplementary of the Penal Adjudication Procedure Law, send the accused and the plaintiff to the court and set forth the penal claim therein immediately. In such a case, the court will convene without delay. According to article 27 of the Penal Courts 1 and 2 Formation Law, the judge of the court can, as explained above, initiate the prosecution and trial of the accused in the court right away, unless the accused requests a time-limit or the court deems that preliminary investigations should be completed.

166. When the file with the bill of indictment is set forth in the court, the accused will be summoned, served with a copy of the bill of indictment, and declare to the court if he has chosen a lawyer and if other persons, whose names have not been mentioned, should be summoned to the court.

167. In all penal matters the accused can appoint up to three lawyers (art. 314, Penal Adjudication Procedure Law and art. 10, Penal Courts Formation Law). In the case of accusations that are liable to capital punishment or to life imprisonment, it is compulsory to appoint a lawyer (art. 9, Penal Courts Formation Law and verdicts No. 15, dated 19 September 1984 and No. 501, dated 9 April 1987, passed by the full board of the Supreme Court).

168. If the need for the intervention of a lawyer is not observed, it would lead to reversal and reconsideration of the verdict. In this case the Procedure Unity Verdict of the Full Board of the Supreme Court reads: "In article 35 of the Constitution, great importance is attached to the right of appointment of a lawyer. In addition, considering that article 9 of the Penal Courts Formation Law and the provisions of note 2, article 7 and article 12 of the Public Courts Formation Law. adopted on 11 September 1979, and its subsequent amendments are, by virtue of the Guardian Council Circular dated 9 October 1982, legally valid; the intervention of a counsel briefed by the Government (when no lawyer has been appointed by the accused) is necessary in penal courts and in matters liable to capital punishment and life imprisonment; therefore, the verdict of Branch 16 of the Supreme Court issued on the basis of this viewpoint is legal and acceptable. According to the single article related to the Unity of Judicial Procedure (1949), this verdict is binding in similar cases for branches of the Supreme Court and other courts."

169. Furthermore, the Procedure Unity Verdict of the Full Board of the Supreme Court states: "In view of the general nature and applicability of article 284 of the Law amending certain articles of the Penal Adjudication Procedure Law (1982), which considers the first verdict to be revisable in three cases, if the offence and investigation thereof have occurred prior to the Procedure Unity Verdict of the Supreme Court Full Board No. 15 dated 19 September 1984, but the verdict was pronounced after the aforementioned verdict and without the intervention of a lawyer, then the provisions of article 284 of the said Law would be applicable. Therefore, the verdict of Branch 12 of the Supreme Court, which conforms with this view, is deemed to be correct and consistent with the Law. By virtue of the single article of the Judicial Procedure Unity Law (1949), this verdict is binding for branches of the Supreme Court and other courts in similar cases.

Note: Since coming into effect the Law determining the revision cases of courts' verdicts and the manner of investigating them, adopted on 5 October 1988, and the Law of Formation of Penal Courts 1 and 2 of the Supreme Court branches, ratified on 9 July 1989, have become the bases for revision of courts' verdicts."

170. In accordance with article 309 (as amended) of the Penal Adjudication Procedure Law, the accused may request the President of the court to appoint a lawyer for him. If, taking account of the circumstances, the court deems it necessary to appoint a lawyer, it will appoint one from among the approved lawyers; otherwise, if the accused does not request an attorney, the court would appoint a lawyer.

171. In some cases falling under the penal law, if the accused has not introduced his lawyer within 10 days after service of notification, the head of the justice bureau can, relying on article 9 of the said Law, send the file to the court's President to appoint an authorized lawyer for the accused.

172. According to article 31 of the Bar Association Law, adopted on 14 February 1927, lawyers must accept the selective legal and penal attorneyship referred to them within the limits set by laws and regulations. According to the note to the same Legal Bill, "selective attorneyship" is the power of attorney entrusted to them by the court in penal matters and by the Association in legal matters.

173. According to article 89 of the Prisons Regulations, adopted on 19 June 1989, the lawyers holding official power of attorney to protect their clients' rights, can, whenever the occasion demands, arrive at the prison during office hours, present their power of attorney to the prison warden, and, if possible, meet their client in a special room separate from the general meeting room. If the prisoner is incommunicado, then the meeting should take place under the supervision of judicial authorities.

174. Concerning the selection of a lawyer, the State Expediency Council ratified a single article on 3 December 1991 as follows: "Single Article - the litigants are entitled to select lawyers, and all courts established according to law are bound to accept lawyers.

Note 1: The litigants in the special clerics court are also entitled to select lawyers; the court shall specify a number of competent clerics as lawyers so that the accused can choose one of them.

Note 2: If, at the discretion of the High Court of Cassation, a court denies an accused to choose a lawyer, the issued verdict will be devoid of legal validity, and will entail third class disciplinary action for the first time and dismissal from judicial function in the second time.

Note 3: In the position of defence, the lawyer will enjoy respect and security as the holders of judicial functions do."

175. In accordance with article 139 of the Penal Adjudication Procedure Law concerning the summoning of witnesses and informed persons and their cross-examination, the examining magistrate will, according to regulations, summon persons who are introduced by the accused and who are aware of the incident and its circumstances.

176. According to the supplementary note to article 329 of the Penal Adjudication Procedure Law, "For any witness who has appeared in the trial and whose testimony is requested by either litigant, the court is bound to accept that request." Furthermore, in accordance with article 25, paragraph 4, of the Penal Courts Formation Law "Statements of witnesses introduced by the accused or by his attorney will be heard." According to article 26 of the same Law "If ... the accused request that inquiries be made from persons who have appeared in the court, even though they have not been summoned, the court

will make the necessary inquiries from them." According to article 27 of the same Law, "... based on the request of the accused, the court can make inquiries from witnesses again, individually or collectively."

177. According to the last part of article 125 of the Penal Adjudication Procedure Law, during cross-examination, "it is prohibited to pose leading questions to the accused or to beguile and compel him. If the accused refuses to answer, his refusal will be recorded in the transcripts." By virtue of article 127 of the same Law, "Answers must be transcribed without any change or distortion whatsoever. Literate witnesses will write the answers themselves."

178. According to article 28 of the Islamic Punishment (Ta'zirat) Law, adopted on 9 July 1983, "If any judicial or non-judicial civil servant inflicts bodily harm on an accused, or gives an order to this effect in order to extract a confession from him, he will be sentenced to terms of imprisonment ranging from six months to three years; if the accused dies as the result of the bodily harm, then the perpetrator and the person who issued the order, shall be liable to the punishment for murder and the ordering of murder, respectively. In view of the foregoing, non-compulsion of the accused to make statements against himself is guaranteed in the laws."

179. According to article 26 of the Islamic Punishment Law, adopted on 13 October 1982, "If a crime is committed by a minor he shall be immune to penal liability. The disciplinary measures will, at the discretion of the court, be entrusted to their guardians and, if the occasion demands, to the Centre for Education and Reformation of Minors." It should be mentioned that according to law, deliberate crimes committed by a minor will be considered as unintentional crimes and will entail compensation (blood-money), which shall be paid by the father or paternal relatives.

180. The Education and Reformation Centre is a place for keeping, educating and rehabilitating accused persons and convicts below 18 years of age. In those cities where rehabilitation and education centres have not been established, separate localities will be used as correction places to keep the above persons. (For further information refer to the explanations furnished under article 24 concerning children's rights.)

181. Regarding the age of majority, which is the determinant of a child's responsibility and obligation, the Law of Contracting Parties, adopted on 9 September 1934, is still valid: "Single Article - As of the date that this Law comes into effect, in regard to all transactions, contracts, and unilateral obligations, except marriage and divorce, the law courts and notary publics shall consider as minors those persons, whether males or females, who have not reached a full 18 calendar years, unless before entering into the transaction, contract, or unilateral obligations, their majority has been proved in courts by the Prosecutor General. Those who have reached 18 full calendar years will be considered adults by law courts, government offices and notary publics, unless their minority has been proved by the Prosecutor General in courts. A person's identity card is the basis for recognition of his age, unless the contrary is proved."

182. In article 14, paragraph 5, of the International Covenant on Civil and Political Rights, reference is made to penal court investigations in the event of conviction. According to the articles of the Penal Adjudication Procedure Law, after crimes have been uncovered by disciplinary officials, and when preliminary investigations have been carried out in a public court and the accused has been convicted, the file with the bill of indictment will be set forth in Penal Courts 1 and 2, by virtue of the jurisdiction provided for by the Penal Courts 1 and 2 Formation Law and Supreme Court Branches Law, adopted on 21 June 1989, as the case may be, and investigations will be made thereon. By virtue of articles 31 through 35 of the said Law as well as the Law pertaining to the Review of the Verdicts Passed and the Method of Their Investigation, adopted on 6 October 1988, the verdicts passed by penal courts can be reviewed by both parties. Several penal laws related to this paragraph of article 14 of the Covenant are quoted hereunder.

183. Article One of the Penal Courts 1 and 2 and the Supreme Court Branches Formation Law provides that the penal courts will convene in the manner prescribed in this Law, will investigate according to law the offences which are liable to the following punishments, and which do not fall under the jurisdiction of other courts, and will then issue appropriate verdicts:

(a) Hodud (punishments);

(b) Retribution;

(c) Diat (blood-money);

(d) Ta'zirat (reproof);

(e) Preventive punishments.

184. Regarding article 14, paragraph 6, of the Covenant, it should be said that article 171 of the Constitution of the Islamic Republic of Iran guarantees the provisions of this paragraph. Article 171 of the Constitution reads: "Whenever an individual suffers moral or material loss as the result of default or error of the judge with respect to the subject-matter of a case or the verdict delivered, or the application of a rule in a particular case, the defaulting judge must stand surety for the reparation of that loss in accordance with Islamic criteria. Otherwise, losses will be compensated by the State. In all such cases, the repute and good standing of the accused will be restored." In various laws, certain compensations have been envisaged for the injured party: for example, the Civil Liability Law of 1960 contains such specifications, some article of which are quoted hereunder.

185. Article 1 of the Civil Liability Law provides that "anyone who, without legal authorization, deliberately or through negligence, inflicts harm on the body, health, property, freedom, prestige, financial reputation or on any other rights provided by law to individuals, which may result in material or moral loss, shall pay compensation for his act."

186. Article 2 of the said law states that where the act of the person inflicting losses results in material or moral damages to the injured party, the court, after investigation and substantiation of the case, will sentence him to compensate the damages, and if the act of the person inflicting losses has caused the said damages, will sentence him to compensate the same kind of damages he has inflicted.

187. Article 10 of the said law states: "Anyone who has suffered losses to his personal or family prestige and credability can claim compensation from the person who has inflicted the loss. Where the importance of the loss and the kind of default require, the court can, if the default is proved, issue a verdict to remedy the damage through other means such as apology, insertion of the verdict in newspapers, etc. in addition to the verdict for financial compensation."

188. Article 11 of the said Law provides that "Employees of the Government, municipalities and institutes affiliated thereto, who in the course of their duties or through carelessness inflict damages on people, will be held personally responsible to compensate for the damages. However, if the damages were not caused by their acts but by a deficiency of the means and equipment of the said offices and institutes, then the latter shall be held responsible for damages. As regards the State Sovereignty Acts, if certain actions necessary to safeguard social interests in accordance with law cause damages to others, the Government will not be held responsible to pay the damages."

189. Regarding article 14, paragraph 7, of the Covenant, it should be stated that with the exception of cases covered by the provisions on restitution or adjudication, stays of prosecution and retrial are accepted legal principles. Whenever the Penal Adjudication Procedure Law is inapplicable, the uniform standard of the parent Law (i.e. the Civil Adjudication Procedure Law, can be used. The grounds for acceptance of the above matters is article 198, paragraph 4, of the Civil Adjudication Procedure Law.

Article 15

190. Article 36 of the Constitution provides that: "The passing and execution of a sentence must only be by a competent court and in accordance with the law." Further, article 169 of the Constitution says: "No act or the lack of an act may be regarded as a crime with retroactive effect on the basis of a law framed subsequently." Article 2 of the Islamic Punishment Law also provides that "Any act or the lack of it which, according to law, is liable to punishment is considered a criminal offence."

191. Article 11 of the Islamic Punishment Law provides that: "Punishment or corrective and educational action shall be by virtue of the law which was in force prior to the commission of the criminal offence, and no act or the lack of it can be considered a criminal offence and liable to punishment by virtue of a subsequent law. However, if after the occurrence of the crime a law were enacted based on commution or non-punishment, or were otherwise more favourable

to the offender, it would be applicable with respect to the offence committed prior to enactment of the law, pending the final verdict. If a binding verdict has been passed by virtue of the former law, then the following action will be taken:

(a) If an act were a crime in the past but not considered a crime by virtue of the subsequent law, then the final verdict would not be implemented, and if it were in the process of implementation, it would be suspended; in these two cases, and also where the verdict had been previously implemented, there shall be no penal consequence whatsoever. These provisions will not be applicable to those laws which have been enacted for a definite period and in special cases;

(b) If the subsequent law is based on commution of punishment, then the condemned party can request a retrial with respect to the verdict. In no case can the second punishment be more severe than the first one.

Note: If, by virtue of the subsequent law, the punishment of a criminal offence were converted into a corrective and educational action, then only the latter would be covered by the verdict."

Article 16

192. Several articles of the Civil Code relate to this principle of the Covenant, including the following:

(a) Article 956 - The capacity to possess rights begins with the birth of a human being and ends with his death;

(b) Article 957 - A child in the womb will enjoy civil rights provided it comes into the world alive;

(c) Article 958 - Every human being is entitled to civil rights, but no one can utilize these rights unless he possesses the legal capacity to do so;

(d) Article 1210 - No one, after reaching the age of maturity, can be treated as insane unless his insanity has been proved.

Article 17

193. Article 22 of the Constitution provides that: "The dignity, life, property, rights, residence, and occupation of the individual are inviolable, except in cases sanctioned by law." Furthermore, according to article 25 of the Constitution: "The inspection of letters and the failure to deliver them, the recording and disclosure of telephone conversations, the disclosure of telegraphic and telex communications, their censorship or the wilful failure to transmit them; eavesdropping and all forms of covert investigation are forbidden, except as provided by law."

194. Article 60 of the Islamic Punishment (Ta'zirat) Law of 1983 provides: "If any judicial or non-judicial employee or official or any person to whom a government service has been assigned, enters a house without the owner's permission and consent, in cases other than those prescribed by law and without legal arrangements, he will be sentenced to imprisonment from one month to one year, and if he has committed another criminal offence or caused it to occur, he will also suffer the punishment therefor."

195. According to article 64 of the said Law: "Any government employee and official who, in cases other than those prescribed by law, opens, confiscates, destroys, inspects, records or eavesdrops on people's correspondence, cables or telephone conversations or discloses their contents without the owner's permission, will be condemned to imprisonment and dismissal from his post." Furthermore, in accordance with Article 106 of the Ta'zirat (Reproof) Law of 1983, "...all those people who, on account of their profession or occupation, become confidants, will be liable to punishment if they disclose people's secrets in cases other than those prescribed by law."

196. In this connection, several articles of the Penal Adjudication Procedure Law are presented hereunder:

(a) Article 91 - Searches of houses will be made only in those cases where there is sufficient proof to conclude that the offender or the means of a crime or its evidence can be found there;

(b) Article 92 - The search will be made in the presence of the landlord and witnesses of the inquiries; in the event that the landlord is absent, search will be made in the presence of his wife;

(c) Article 94 - Searches of houses will be made during the day. They will be made at night only when it is found necessary, and in such cases the examining magistrate shall insert in the minutes why it was necessary to do so;

(d) Article 97 - Only those papers and writings of the accused which are related to the crime will be taken and presented to the witnesses of inquiries. The examining magistrate is bound to exercise caution in the case of other papers of the accused and not to cause the contents of papers unrelated to the crime to be revealed;

(e) Article 99 - Where it is found necessary to inspect and examine the papers of the person accused of a criminal offence, or the papers which arrive at the accused house through post and telegrams addressed to the accused, the following actions will be taken:

(i) The examining magistrate will inform the post and telegraph offices, each time separately, to seize the letters and telegrams of the person accused of the criminal offence and to send the same to the examining magistrate. Upon receipt of the letters and telegrams, the magistration opens them in the presence of the accused and prepares minutes of the process to be signed by him, the secretary, and the accused. In case the accused refuses to sign, the matter will be so recorded;

(ii) Relevant papers will be included in the case file and irrelevant papers will be returned to the owner against receipt. According to articles 100 and 101 of the Penal Adjudication Procedure Law, the examining magistrate is entitled, if he so wishes, to demand information about papers which are issued by the accused and which may be available in post and telegraph offices or in other government institutions and companies. The relevant authorities are bound to put the information required by the examining magistrate at his disposal;

(f) Article 102 - If the accused has entrusted his papers to his attorney for the purpose of concealment, the examining magistrate will be entitled to examine the said papers in the presence of the attorney.

Article 18

197. In the Constitution of the Islamic Republic of Iran particular importance is attached to the issues. According to Article 12 of the Constitution, the official religion is Islam and the sect is Ja'fari Isna-Ashari; however, it is immediately added "...Other Islamic schools, including the Hanafi, Shafi'i, Maliki, Hanbali and Zaydi, are to be accorded full respect, and their followers are free to act in accordance with their own jurisprudence in performing their religious rites. These schools enjoy official status in matters pertaining to religious education, affairs of personal status (marriage, divorce, and inheritance) and related litigation in the courts of law. In regions of the country where Muslims following any one of these schools of faith constitute the majority, local regulations, within the bounds of the jurisdiction of local councils, are to be in accordance with the respective school of faith, without infringing upon the rights of the followers of other schools."

198. Articles 13 and 14 of the Constitution refer to the freedom of religious minorities. Article 13 of the Constitution states: "Zoroastrian, Jewish and Christian Iranians are the only recognized religious minorities, who, within the limits of the law, are free to perform their religious rites and ceremonies, and to act according to their own canon in matters of personal affairs and religious education." Article 14 of the Constitution provides that "In accordance with the sacred verse God does not forbid you to deal kindly and justly with those who have not fought against you because of your religion and who have not expelled you from your homes" (60:81). The Government of the Islamic Republic of Iran and all Muslims are duty-bound to treat non-Muslims in conformity with ethical norms and the principles of Islamic Justice and equity, and to respect their human rights. This principle applies to all those who refrain from engaging in conspiracy or activities against Islam and the Islamic Republic of Iran. It is stated in article 23 of the Constitution that: "Inquisition is forbidden, and no one may be molested or questioned, simply for holding a certain belief."

199. In the enacted laws and regulations, the religious rites of those who hold religions other than the official one are respected, e.g. the Prisons Regulations approved on 19 June 1989. According to article 134 of the above Regulations, the official religion of a prisoner is indicated in a questionnaire at the time of his admission, and necessary facilities are provided for performance of prisoners' religious rituals in order to strengthen their religious faith.

200. See paragraph 122 above regarding rights of any prisoner who is an adherent of an official religion for performing his religious duties.

201. According to article 139 of the said Regulations, at the suggestion of the prison warden, and with the concurrence of the relevant Director-General and judicial authorities, the prisoner may, after fulfilment of legal and disciplinary formalities, take part in religious ceremonies outside prison. According to article 5 of the Civil Code of Iran, all inhabitants of Iran, whether of Iranian or of foreign nationality, shall be subject to the laws of Iran except in cases which the law has excepted. In order to preserve the personal status of Iranians who do not adhere to the official religion of the country, on 1 August 1933 the legislature passed a law with respect to the personal status of non-Shi'a Iranians in courts, which is quoted hereunder:

> "Single article: As regards the personal status, inheritance and will of non-Shi'a Iranians whose religions are recognized, the Courts should comply with the customs and usages prevalent in their religions, except in those cases where the provisions of the law are concerned with public order as follows:
>
> (a) In questions related to marriage, divorce and the prevalent rules of the religion to which the husband adheres;
>
> (b) In questions related to inheritance, will and the prevalent rules of the religion of the deceased;
>
> (c) In questions related to adoption, the prevalent rules and customs of the religion to which the godfather (adopted father) or godmother adheres."

202. The above law is in force at present, and the courts rely on it in their verdicts. This is supported by the Uniform Procedure Verdict No. 37, dated 10 December 1984, of the Supreme Court Full Board, which has the force of law for courts. The verdict reads thus: "In view of article 13 of the Islamic Republic of Iran Constitution; considering the single article of the Law of 1 August 1933 observing the personal status of non-Shi'a Iranians in courts concerning the personal status, inheritance rights and will of non-Shi'a Iranians whose religions have been recognized, as it is necessary to comply with the established rules and customs prevalent in their religions in courts, except in those cases where the provisions of courts are related to the public order; therefore the courts, in the course of their investigations about the above matters and authorization of wills, are bound to observe the established rules and customs in their religions except where the provisions of law are related to public order, in which case they should pass their verdicts

accordingly. In accordance with article 43 of the Family Act and article 3 of the supplementary articles of the Penal Adjudication Procedure Law of August 1958, the above verdict is binding on all courts in similar cases."

Article 19

203. Article 19 of the International Covenant on Civil and Political Rights deals with freedom of expression. As these rights entail specific responsibilities, they cannot be restricted, except as provided by law, in order to respect the rights or reputation of others, to protect national security, public order, health or morals. In order to achieve this objective, article 23 of the Constitution provides: "Inquisition is forbidden, and no one may be molested or questioned simply for holding a certain belief."

204. According to article 24 of the Constitution, publications and the press enjoy freedom of expression, except when it is detrimental to the principles of Islam or the rights of the public. Furthermore, article 168 of the Constitution says about the freedom of the press: "Political and press offences will be tried openly and in the presence of a jury, in the courts of justice. The manner of the selection of the jury, its powers, and the definition of political offence, will be determined by law in accordance with Islamic criteria." Finally, article 175 of the Constitution provides that: "The freedom of expression and dissemination of thoughts on the radio and television of the Islamic Republic of Iran must be guaranteed in keeping with Islamic Criteria and the best interests of the country."

205. In compliance with article 24 of the Constitution, the Press Law was adopted on 12 March 1986. This Law consists of six chapters concerning the definition, mission, rights and limitations of the press, the qualifications of the applicants, the stages of issuing of a publication licence, and press offences. In paragraph C of the said Law it is clearly stated that efforts to remove false and divisive boundaries, and to refrain from setting various strata of the society against one another, such as factionalism on the basis of race, language, customs, or local traditions are among the objectives of the press. Furthermore, according to article 34 of the said Law: "Offences committed by the press will be investigated by a competent court in the presence of a jury."

206. In cases of press offence, the Executive Regulations of the Press Law, adopted by the Council of Ministers on 28 January 1987, provides that the Ministry of Islamic Guidance prepares grounds for the appointment of members of a jury in Tehran; henceforth, after formation of the jury, press offences will be investigated in public courts in the presence of a jury.

Article 20

207. According to article 143 of the Constitution of the Islamic Republic of Iran, the army is responsible for guarding the independence and territorial integrity of the country. In article 6 of the Army Code of the Islamic Republic of Iran, the principles and main characteristics of the armed forces and its "defensive" nature are stressed. The same article establishes that the armed forces, with all their powers, prevent aggression by the enemy, resist any attacks, and suppress aggressors.

208. In the Penal Laws of Iran, including article One of the Ta'zirat Law, several punishments have been envisaged for those who plot, with foreign Governments or their agents, to start hostilities or war against the Government, or who engage in plots that would normally lead to war against the Government.

209. Article 10 of the Ta'zirat Law of 1983, in the section dealing with internal anti-security crimes, states "anyone who incites people to war or killing of each other in order to disturb security and thereby causes deaths, even in remote regions, or destruction and plunder, will be considered a mohareb (person fighting against an Islamic State)."

Article 21

210. By virtue of articles 26 and 27 of the Constitution, all Iranian citizens enjoy the fundamental right to peaceful assembly. Article 26 says: "The formation of parties, societies, political or professional associations, as well as religious societies, whether Islamic or pertaining to one of the recognized religious minorities, is permitted, provided they do not violate the principles of independence, freedom, national unity, the criteria of Islam, or the basis of the Islamic Republic. No one may be prevented from participating in the aforementioned groups, or be compelled to participate in them." Article 27 of the Constitution provides that "Public gatherings and demonstrations may be freely held, provided arms are not carried, and that they are not detrimental to the fundamental principles of Islam."

211. In order to achieve the objectives contained in the above articles, which fully conform with the Covenant, the Law Pertaining to Activities of Parties, Societies, Political and Professional Associations as well as Islamic and Recognized Religious Minorities Societies was adopted on 29 August 1981. Several articles of the said Law, illustrating the executive measures taken by the Government, are as follows:

(a) Article 1 - Political parties, societies and groupings, and the like, are defined as organizations which have specific objectives and constitutions and which are established by a group of real persons who believe in definite ideals and policies, and the behaviour of which are, in one way or another, concerned with the principles of administration and the policies of the Islamic Republic of Iran system;

(b) Article 6 - Groups may freely engage in activities provided they do not commit offence mentioned in the paragraphs of article 16 of the Law.

Note 2: Demonstrations without arms may freely be held with the prior notification of the Ministry of the Interior, provided that they are not, at discretion of the article 10 Committee, detrimental to the principles of Islam; also, public gatherings may be freely held in public squares and parks after having obtained authorization from the above Ministry.

212. In article 16, the groups covered by this Law are prohibited from certain acts in their publications, gatherings and activities, which include:

(a) Engaging in activities that may violate the independence of the country;

(b) Any connection, exchange of information, collusion with embassies that may be harmful for freedom, independence, national unity and the interests of the Islamic Republic of Iran;

(c) Receiving any financial and other assistance from foreigners;

(d) Violation of the legitimate freedom of others.

Article 22

213. This article of the Covenant discusses the right of formation of trade unions. Article 26 of the Constitution provides that: "The formation of parties, societies, political or professional associations, as well as religious societies, whether Islamic or pertaining to one of the recognized religious minorities, is permitted provided they do not violate the principles of independence, freedom, national unity, the criteria of Islam, or the basis of the Islamic Republic. No one may be prevented from participating in the aforementioned groups, or be compelled to participate in them."

214. The Law Pertaining to Activities of Political Parties, Societies, and Trade Associations, as well as the Islamic and Recognized Religious Minorities Associations was passed by the Islamic Consultative Assembly on 29 August 1981. Article 2 of the said Law defines trade unions and covers the formation of trade guilds.

215. Furthermore, article 131 of the Labour Code provides that: "In compliance with section 26 of the Constitution of the Islamic Republic of Iran, and in order to protect the legitimate and statutory rights and interests of workers and employers and to improve their economic situation in a manner guaranteeing the protection of the interests of society as a whole, the workers subject to the Labour Code, and the employers of a given profession or industry, may establish guild societies.

Note 1: In order to coordinate the fulfilment of their assigned statutory functions, the guild societies may set up guild society centres in the provinces and a Supreme Council of Guild Societies at the national level."

Article 23

216. Article 256 of the Constitution provides that: "Since the family is the fundamental unit of Islamic society, all laws, regulations, and pertinent programmes must tend to facilitate the formation of a family, and to safeguard its sanctity and the stability of family relations on the basis of the law and ethics of Islam."

217. By virtue of article 21, paragraph 1, of the Constitution, the Government is bound to establish competent courts to protect and preserve the family. In compliance with this part of the Constitution, the Special Civil Court, which was established by virtue of the legal bill adopted on 23 September 1979 and its subsequent amendments, has jurisdiction to deal with the following matters:

(a) Claims concerning marriage, divorce, cancellation of marriage, dowry, alimony, subsistence for other persons and fostering;

(b) Claims about parentage, will, endowment, entailment, custodianship and guardianship;

(c) Appointment of guardians, supervisors, trustees and their dismissal;

(d) Other legal claims at mutual consent;

(e) Special Civil Courts can investigate penal matters which are directly related to legal claims set forth in that Court, and can issue appropriate verdicts, pursuant to regulations. According to article 3 of the Law for Review of Courts Verdicts and the Method of Their Investigation, adopted on 6 October 1988, the forum for cancellation and confirmation of the verdicts of a Special Civil Court is the Supreme Court.

218. In the Islamic Republic of Iran special importance is attached to the family and the consolidation of family foundations; the facilities provided for the prisoners in this regard are worthy of mention:

(a) According to article 84 of the Prisons Regulations, adopted on 19 June 1989 the spouses, father or mothers, brothers and sisters, and the children of prisoners are entitled to visit the prisoner every week under special conditions, and other relatives and friends, subject to permission;

(b) According to articles 85 and 87 of the said Regulations, the prisoners may have meetings with their spouses, children, parents, brothers and sisters in the presence of an officer, and in some cases they may have private meetings, in the absence of the officer, with their spouses and children, subject to the prison warden's agreement;

(c) According to article 100 of the said Regulations, the prisoner may, in exceptional cases and subject to the agreement of the prison warden, correspond, to an extent more than the prescribed limit, with his relatives, competent judicial authorities, or with others who, in one way or another, have some bearing on his education and the solution of his personal, family, and social problems, with due regard to the relevant regulations;

(d) As regards consolidation of the family foundation of prisoners, article 111 of the Regulations provides that in order to facilitate the prisoners' return to normal life, efforts must be made to maintain their family bonds and interests; for this purpose, the social workers in prisons are bound to establish regular contact with prisoners, acquire their confidence, and play an effective role in solving their problems and meeting their material and moral needs, as well as those of their families, through concerned agencies and, consequently, maintain good relations with their families and consolidate their family bonds;

(e) According to article 114 of the above Regulations prisoners are given leave in certain cases such as marriage of children, death of immediate relatives, their suffering from serious diseases, or in order to strengthen their family foundation or for other urgent matters.

219. As specified in article 43, paragraph 1, of the Constitution, "the provision of basic necessities" such as "the necessary facilities for the establishment of a family", are among the essential criteria of the economy of the Islamic Republic of Iran. According to article 85 of the Social Security Law, adopted on 24 June 1975, "a sum of money equivalent to one month's salary or wage, as the family allowance, is given to an insured person, whether man or woman, who marries for the first time." According to note 2 of article 85, "If the parties to the marriage contract fulfil the conditions mentioned in this article, then the marriage allowance is given to both of them." A family allowance is also paid to civil servants and those who are covered by the Social Security Law. Nevertheless, in view of the importance of family planning, the social and economic problems, and education, it is stipulated in article 86 of the said law that "the family allowance is paid for up to two children of the insured person."

220. In the Islamic Republic of Iran marriage of men and women is permitted after puberty. As regards the permission of the girl's guardian for marriage, it should be noted that by virtue of article 1043 of the Civil Code, "The marriage of a girl who has not married previously is dependent on the permission of her father or grandfather on her father's side even if she has reached the age of puberty. If, however, the father or the grandfather on her father's side withholds the permission without justifiable reason, the girl can refer to the Special Civil Court, giving full particulars of the man whom she wants to marry and also the terms of the marriage and the dowry money agreed upon and notify her father or her grandfather on her father's side through the special Civil Court. The Court can issue the permission for marriage after five days from the date of notification."

221. Regarding article 23, paragraph 3, of the Covenant, the matrimonial relations between a man and woman are materialized through a marriage contract. Therefore, the marriage contract should fulfil the general conditions for validity of the contract, in addition to its special conditions. In other words, the marriage contract is entered into through mutual intention and consent of parties, and this real intention must be accompanied by some factor which proves that there was such an intention (art. 190, para. 1 and art. 191 of the Civil Code). The contract would not be binding if there were any compulsion. Thus article 1070 of the Civil Code provides "Consent of the marrying parties is the condition upon which the enforcement of the marriage contract depends. So if a party at first showing reluctance subsequently authorizes the making of the contract, the contract will be binding unless the reluctance is so acute that the reluctant person cannot be considered as having been in the possession of any willful intention." In the latter case, the permission (i.e. the subsequent consent) will have no effect, because the intention, as the essential condition, did not exist. Article 1062 of the Civil Code states: "Marriage takes place by proposal and acceptance in words which explicitly convey the intention of marriage."

222. According to article 1102 of the Civil Code, "As soon as marriage takes place in due form, relations of matrimony will automatically exist between the marrying parties, and the rights and reciprocal duties of husband and wife will be established between them." According to article 1103 of the same Code: "Husband and wife are bound to establish friendly relations." In accordance with article 1104 of the said Code: "Husband and wife must cooperate with each other for the welfare of their family and the education of their children."

223. Upon marriage, and also in the case of a divorced wife during the period of Uddeh, and a wife who is pregnant from her husband and whose marriage has been cancelled or final divorce has been pronounced, until the child is born, the dowry is at the charge of the husband (arts. 1106, 1109,and 1113 of the Civil Code).

224. Immediately after the performance of the marriage ceremony the wife becomes the owner of the dowry and can dispose of it in any way and manner that she may like. Fixing of the amount of dowry depends upon the mutual consent of the marrying parties. So long as the dowry is not delivered to her, the wife can refuse to fulfil the duties which she has to her husband (arts. 1080, 1082, and 1085 of the Civil Code). The wife can independently do what she likes with her own property (art. 1118). The fact that the wife has property as well as the power to dispose of her property and dowry as she likes, does not relieve the husband of his obligation to pay for the cost of maintenance of his wife; furthermore, the maintenance of children is the duty of their father.

225. According to article 1107 of the Civil Code: "Cost of maintenance includes dwelling, clothing, food, furniture in proportion to the situation of the wife, on a reasonable basis, and provision of a servant if the wife is accustomed to have servants or if she needs one because of illness or handicap." The wife can refer to the court if her husband refuses to provide for her maintenance. In such a case the court will fix the amount and will compel the husband to pay it. If it is impossible to enforce a judgement, the wife can apply to the judge for divorce, and the judge will compel the husband to divorce her. The same stipulation will be binding in a case where the husband is unable to provide for the maintenance of the wife (arts. 111, 1112 and 1129 of the Civil Code). According to Penal Law, the husband's refusal to provide maintenance is liable to punishment.

226. In accordance with article 1133 of the Civil Code, a man can divorce his wife whenever he wishes to do so, if, according to the latter part, note 2, article 3 of the Special Civil Code, the parties have agreed to divorce; otherwise the husband would be obliged to refer to the court. In such a case, the court would refer the matter to arbitration and if there is no reconciliation between the couple, the court would allow the husband to divorce.

227. According to article 119 of the Civil Code, the parties to a marriage can stipulate any conditions to the marriage which is not incompatible with the nature of the contract of marriage, either as part of the marriage contract or in another binding contract: for example, it can be stipulated that if the husband marries another wife or absents himself for a certain period, or discontinues payment of the cost of maintenance, or makes an attempt on the life of his wife or treats her so harshly that their life together becomes unbearable, the wife has the power, which she can also transfer to a third party by power of attorney, to divorce after establishing in the court the fact that one of the foregoing conditions has occurred, and after the issue of a final verdict to that effect.

228. After the Revolution, some of the conditions contained in the marriage certificate and marriage notary public changed. In addition to inserting the conditions of marriage contract, or other binding contracts in the official marriage certificate, additional printed information was at the disposal of marrying parties free of charge in order to inform them in advance of these changes. The conditions inserted in paragraph (a) are as follows: "In the marriage contract or another binding contract, the wife has made it a condition that if the divorce is not at her request and if, at the discretion of the court, the divorce is not due to the wife's breach of matrimonial duties or her maltreatment, the husband shall transfer gratuitously to the wife half of the properties he has acquired during their married life or its equivalent at the discretion of the court (signed by husband and wife). In paragraph (b), it is stated: "In the marriage contract or another binding contract, the husband has granted an irrevocable power of attorney, to the wife, which can be delegated to a third party, that she can refer to the court and obtain authorization to obtain divorce, after having chosen the type of divorce, and give up her marriage dowry (signed by husband and wife).

229. The provisions of book 8 of the Civil Code of Iran refer to children. As it is necessary to protect children from two points of view, (maintenance and education, and protection and administration of their properties), so in the second and third chapters of the Civil Code, the persons who should fulfil the above obligations and their scope of powers are determined.

230. According to article 1168 of the Civil Code, "Maintenance of children is both the right and duty of the parents." As regards maintenance, priority is given to the mother for two years after the birth of the child, and thereafter protection shall be provided by the father, except for girls, whose protection shall be provided up to seven years of age by the mother (art. 1179, Civil Code).

231. If the parents of the child do not live in the same house owing to divorce or any other reason, the parent who is not in charge of custody of the child has the right to visit the child. Determination of the time and place of visit and other particulars will be decided by the court if there is any dispute between the parents.

232. The parents are bound to take such measures as circumstances and their means allow for the education of their children. They must not leave their children's talents undeveloped (art. 1178). A child cannot be taken from the parents, or from the father or the mother who is in charge of its custody, except in cases where legal justification exists for doing so (art. 1175). According to article 1173 of the Civil Code, "If the physical health or moral education of the child is endangered as the result of carelessness or moral degradation of the father or mother who are in charge of its custody, the court can take any decision appropriate for the custody of the child at the request of its relatives or its guardian or the public prosecutor."

Article 24

233. According to article 21 of the Constitution the Government is bound to protect homeless children. Furthermore, article 26 of the Islamic Punishment Law provides that: "If children commit a criminal offence, they will be free of any penal liability, and their education will be entrusted to the children's guardians, or, if necessary, to the Centre for Reformation and Education of Children." By a child is meant someone who has not reached religious maturity.

234. According to the verdict of the Full Board of the Supreme Court No. 30, dated 24 December 1985, religious maturity, as is used in the Civil Code, does not refer to financial matters. In financial matters, the criterion of maturity is 18 full years unless the court has declared that they are mature. Furthermore, according to note 1 to article 36 of the Islamic Punishment Law, in order to protect the children's rights, the Law has provided that the effect of a waiver of their temporary guardian would be subject to the prosecutor's concurrence.

235. Article 48 of the above Law provides that a pregnant woman who is sentenced to retribution should not be subjected to punishment before delivery, and if after the delivery retribution may endanger the life of the child, it should be postponed until after the child is no longer in danger.

236. According to articles 97, 98 and 99, certain punishments have been provided for kidnapping and concealing a child, and if the child has been entrusted to someone other than the mother, non-restitution of the entrusted child, and for abandonment of a child in a deserted area. In article 117, certain punishments have been envisaged for someone who, through weakness or whims or personal needs, takes advantage of a minor.

237. As regards compulsion to murder, it has been prescribed in note 1 to article 4 of the Retribution and Punishment Law, that if the compelled person is a minor, then only the person who has exerted compulsion shall be condemned to retribution. Furthermore, according to note 2, article 4 of the said Law, if the compelled person is a discerning child, then he should not be subjected to retribution, but his elder sponsor should pay the blood-money.

238. By virtue of note 1, article 2 of the Diat (mulct, blood-money) Law, a deliberate crime committed by a minor is considered as a gross error. In accordance with note 1, article 2 of the Diat Law, a gross error occurs when the offender has neither the intention of committing a crime against the victim, nor the intention of subjecting him to the act that has been done.

239. Article 55 of the Family Law provides that, in addition to the persons mentioned in articles 1219 and 1220 of the Civil Law, the municipality, the Department of Statistics and Status Registration or their agents, the village headman, and the district officer in every locality, are bound to inform the prosecutor of their locality as soon as they learn of a minor who is in need of a guardian. Article 79 of the same Law stipulates that the guardian should make efforts to educate and reform his ward and to act in the latter's best interests.

240. According to article 1218 of the Civil Code, a guardian is appointed for minors with no special tutors. In article 1212, it is further stated that whenever, according to the previous article, a guardian should be appointed for their children, either parent should inform his district prosecutor or representative thereof, and request him to take appropriate action to appoint a guardian.

241. According to article 4 of the Penal Regulations of the Law Pertaining to the Provision of Educational Facilities for Children and Youths, ratified in July 1974, either father or mother, or the legal guardian of a child or youth under 18 years, who is in charge of their living expenses and who, despite financial ability, fails to provide educational facilities for eligible children and youths covered by this Law in a place where educational facilities for relevant courses have been provided by the Ministry of Education, or who somehow prevents his or her eduction, will, by virtue of the verdict of the judicial authorities, be sentenced to a cash fine from 10,000 to 200,000 rials and to fulfilment of the above obligations for the child or youth; and, if the guardian fails to enforce the judgement, or, after its enforcement, prevents the children or youth from studying, he will be condemned to a corrective term of imprisonment from one to three years and to provide for the living and educational expenses of the child or youth.

242. Regulations of Security and Educational Actions of the Islamic Republic of Iran, adopted on 17 May 1982 by the Supreme Judicial Council, provides that:

(a) The Centre for Reformation and Education is the established centre for the maintenance, education and culture of the accused and convicts below 18 years of age. In cities where such centres have not been established, separate places will be used as corrective centres for maintenance of such accused and convicts (arts. 34 and 55 of the above Regulations);

(b) Corrective places consist of the following three sections:

(i) Detention Houses, which are reserved for those children for whom no final decision has been taken by judicial authorities;

(ii) An Admission and Recognition Section, established in order to determine the personality of the above prisoners, according to the relevant regulations;

(iii) A Corrective House Prison reserved for children for whom a final decision has been taken. The Section has educational, scientific and vocational institutes. The children are engaged collectively in educational, scientific and vocational work in those institutes during the days, and stay in special rooms at night.

(c) Disciplinary officials will be in charge of the external protection of the corrective house, while educational supervisors and scientific and vocational instructors will be in charge of its internal administration, under the supervision of the corrective house director;

(d) Disciplinary officials or judicial police will be in charge of external protection of reformation and education centres, while educational supervisors, social workers, scientific and vocational instructors and physicians will be in charge of their internal administration, under the supervision of the units concerned (arts. 35, 36, 37, 38 and 39 of the Regulations).

243. According to article 993 of the Civil Code, the birth of every child must be registered with the local bureau of statistics. In accordance with article 997 every person must possess a family name; and according to article 976 of the Civil Code, all residents of Iran, except foreign nationals, are considered Iranian citizens.

244. According to article 1163 of the said Code, maintenance of children is both the right and duty of parents. By virtue of article 1169, a mother has preference over others for two years from the birth of the child for the custody of the child, and after the lapse of this period, custody will devolve on the father, except in the case of a daughter who will remain under the custody of the mother until 7 years old. Further, according to article 1171, if one of the parents dies, the custody will be the duty of the surviving parent, unless the deceased be the father, and he had appointed a guardian for the child.

245. Article 1172 of the Civil Code provides that: "Neither of the parents can refuse to maintain the child during the time when he or she is responsible for its custody. If he or she does so, the court must induce him or her, on application by the other party or the guardian or one of the relatives or the public prosecutor, to assume custody. If such enforcement is impossible or ineffective, they must arrange the custody at the expense of the father, or in the event of the death of the father at the expense of the mother."

246. According to article 1173 of the same Code, "If the physical health or moral education of the child is endangered as a result of carelessness or moral degradation of the father or mother who are in charge of its custody, the court can take any decision appropriate for the custody of the child at the request of its relatives or its guardian or the public prosecutor." Furthermore, articles 1175 and 1178 of the Civil Code provide that: "The parents are bound to take such measures as circumstances and their means allow for the education of their children. They must not leave their talents undeveloped. A child cannot be taken from the parents or the father or the mother who is in charge of its custody, except in cases where legal justification exists for doing so."

247. In this connection certain provisions have been made in the new Labour Code, adopted in 1990, as follows: It shall be prohibited to employ any person under 15 years of age. A worker between 15 and 18 years of age, hereinafter referred to as a "young worker", shall undergo a medical examination by the Social Security Organization prior to commencing employment (arts. 79 and 80).

248. According to article 82 of the Code, the daily working time for young workers shall be one half-hour shorter than ordinary hours of work. Further, according to article 83 of the said Code, it shall be prohibited to assign overtime work, shift work, or arduous, harmful or dangerous work to young workers, or to require them to carry loads heavier than the authorized maximum weight without using mechanical means. Finally in accordance with article 84, in occupations and jobs which, on account of their nature or of the conditions in which they are performed, may be prejudicial to the health or morals of trainees or young workers, the minimum working age shall be 18 years. Such cases shall be determined at the discretion of the Ministry of Labour and Social Affairs.

Article 25

249. Article 3, paragraph 8, of the Constitution stresses: "The participation of the entire people in determining their political, economic, social and cultural affairs." Article 3, paragraph 9 of the Constitution discusses "the abolition of all forms of undesirable discrimination and the provision of equitable opportunities for all, in both the material and intellectual spheres." In this regard article 6 of the Constitution states: "In the Islamic Republic of Iran, the affairs of the country must be administered on the basis of public opinion expressed by means of elections, including the election of the President, the representatives of the Islamic Consultative Assembly, and the members of Councils, or by means of referenda in matters specified in other articles of this constitution."

250. Article 28 of the Constitution provides that "Everyone has the right to choose any occupation he wishes, if it is not contrary to Islam and the public interest, and does not infringe on the rights of others. The Government has the duty, with due consideration of the need of society for different kinds of work, to provide every citizen with the opportunity to work, and to create equal conditions for obtaining it." Furthermore, in accordance with article 43, paragraph 3, of the Constitution, "The plan for the national economy must be structured in such a manner that every individual can take an active part in directing the affairs of the country." Article 84 of the Constitution provides: "Every representative is responsible to the entire nation and has the right to express his views on all internal and external affairs of the country."

251. Article 100 of the Constitution states that in order to expedite social, economic and other programmes through public cooperation, the administration of each village, division, city and province will be supervised by a council, the members of which are elected by people of the same locality. According to article 114 of the Constitution, "The President is elected for a four-year term by the direct vote of the people ...".

252. According to articles 54 and 55 of the Ta'zirat (Reproof) Law, those people who commit fraud during official elections in the country, or in any way hinder free elections and prevent representatives from being freely elected, will be liable to punishment.

Article 26

253. The stipulations of this article are guaranteed in various articles of the Constitution as follows: article 3, paragraph 14 of the Constitution provides: "Securing the multifarious rights for all citizens, both women and men, and providing legal protection for all, as well as the equality of all before the law." Article 20 of the Constitution reads: "All citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social and cultural rights, in conformity with Islamic criteria." According to the last part, article 107 of the Constitution, "The Leader is equal with the rest of the people of the country in the eyes of the law." Finally, article 140 of the Constitution reads: "Allegations of common crimes against the President, his deputies, and the ministers will be investigated in common courts of justice with the knowledge of the Islamic Consultative Assembly."

254. In this connection, article 7 of the Civil Code provides that: "Foreign nationals resident in Iranian territory shall, within the limits laid down by treaties, be bound by the laws and decrees of the Government to which they are subject in questions relating to their personal status and capacity, and similarly in questions relating to rights of inheritance."

Article 27

255. By virtue of articles 12 and 13 of the Constitution, religious minorities in Iran are free to perform their religious rites, personal status, claims related therewith, religious instructions. Article 19 of the Constitution states that "All people of Iran, whatever ethnic group or tribe to which they belong, enjoy equal rights; and colour, race, language, and the like, do not bestow any privilege." Article 15 of the Constitution provides that: The official language and script of Iran is Persian; however, the use of regional and tribal languages in the press and mass media, as well as for teaching of their literature in schools, is allowed in addition to Persian.

256. In the last part of article 67 of the Constitution about taking the oath by representatives of religious minorities in the first session of the Islamic Consultative Assembly, it is stated: "Members belonging to the religious minorities will swear by their own sacred books while taking this oath."

257. Article 13 of the Islamic Consultative Assembly Election Law of 28 February 1984, and the subsequent amendments provide that: The elections of religious minorities, i.e. Zoroastrians, Jews, Assyrians, Caledonians and the Armenians of the north, covered by the Constituency of Tehran Governorship, and the Armenians of the south, covered by the Constituency of Isfahan Governorship, will be held by the governors and district officers under whom the above minorities reside. Furthermore, note 1 to article 2 of the same Law provides that out of the total representatives, five members are elected as follows: Zoroastrians and Jews, each one representative, Assyrian and Caledonian Christians, collectively one representative, the Armenian Christians in the north and the south, one each.

258. The articles of the Civil Code concerning the rights of minorities are:

(a) Article 6. The laws relating to personal status, such as marriage, divorce, capacity and inheritance shall be observed by all Iranian subjects, even if resident abroad;

(b) Article 7. Foreign nationals resident in Iranian territory shall within the limits laid down by treaties, be bound by the laws and decrees of the Government to which they are subject in questions relating to their personal status and capacity, and similarly in questions relating to rights of inheritance.

259. The single article of the Law pertaining to personal Status of Non-Shi'a Iranians (1933) stipulates in this regard that concerning the personal status and inheritance and will rights of non-Shi'a Iranians whose religions have been recognized, the courts must comply with the rules and customs that are prevalent in those religions as follows, except in cases where the provisions of the law are related to public order:

(a) In questions related to marriage and divorce, the rules and customs prevalent in the religion to which the husband adheres;

(b) In questions of inheritance and will, the customs and rights prevalent in the religion of the deceased;

(c) In questions of adoption, the customs and rules prevalent in the religion to which the godfather or godmother adheres.

260. In this connection, it should be added that Iran has adhered to the International Convention on the Elimination of all Forms of Racial Discrimination. This Convention was signed by the Permanent Representative of Iran in March 1967 and was ratified by the National Consultative Assembly on 21 July 1968 and was published in the Official Gazette No. 6852, dated 25 August 1968. In addition the Law of Adherence of the Government of the Islamic Republic of Iran to the International Convention on the Suppression and Punishment of the Crime of Apartheid was ratified on 24 January 1985 by the Islamic Consultative Assembly and published in the Official Gazette No. 11655, dated 24 February 1985.

261. At present, religious minorities study in their own schools, perform their religious rites in their temples and enjoy their own holidays. For example, in the case of the Zoroastrians minority, according to letter No. 7882/8 Tehran Education Department and the Decision of the 216th session of the Supreme Education Council, dated 16 November 1980, Zoroastrians enjoy five holidays as follows:

26 March, Ashoozartosht's birthday;

8 April, in Commemoration of the dead and martyr;

2 October, Mehregan Festival;

26 December, Death of Ashoozartosht;

30 January, Sedeh festival.

262. The Prime Minister's Circular No. 77420, dated 3 February 1984, addressed to all ministries, government organizations and revolutionary institutions reads as follows: "As religious minorities in the Islamic Republic of Iran should be respected; therefore, all ministries and government institutes and affiliated thereto, as well as Islamic Revolution institutions, are requested to grant leave to their Zoroastrian employees on the birthday and the day of demise of Ashoozartosht, the deceased and martyrdom day as well as the Sedeh and Mehregan festivals, so that they can take part in their religious rituals. They are further requested to show their utmost cooperation in this regard."